

ORDER SHEET

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Justice Soumitra Pal, Chairman

Serial No.  
and  
Date of order

OA-605 of 2021

Devi Sikdar & Others v. Secy., P&AR

02  
04.08.2022

For the Applicants : Mr. A. Sinha,  
Advocate.

For the Respondent : Mr. P. Ghosh,  
Advocate.

For the Respondent No. 2 : Mr. S. Ghosh,  
Advocate.

For the Pr.AG(A&E), WB : Mr. B. Mitra,  
Departmental Representative.

AND

05  
04.08.2022

OA-232 of 2022

Smt. Sumita Sikder v. Secy., P&AR and E Governance

For the Applicant : Mr. P. Ghosh,  
Advocate.

For the Respondent 1 : Mr. G.P. Banerjee,  
Advocate.

For the Respondent No. 2 : Mr. S. Ghosh,  
Advocate.

For the Respondent No. 4 : Mr. A. Sinha,  
Advocate.

For the Pr.AG(A&E), WB : Mr. B. Mitra,  
Departmental Representative.

The matters are taken up by the single Bench pursuant to the order contained in the Notification No. 496-WBAT/1E-08/2003 (Pt.-II) dated 4th August, 2022 issued in exercise of the powers conferred under section 6 (5) of the Administrative Tribunals Act, 1985.

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Since issues involved are more or less identical, OA-605 of 2021-Devi Sikdar & Others v. The State of West Bengal & Others and OA-232 of 2022-Smt. Sumita Sikder v. Secretary, Personnel and Administrative Reforms and E Governance, which are appearing in the list under the heading “For Orders”, are taken up for hearing analogously.

In OA-605 of 2021, the applicants, Devi Sikdar, Samrat Sikdar (Minor) and Snigdha Sikdar (Minor) have prayed for the following order :

*“(a) An order directing the respondent authorities to forthwith disburse the family pension and all pensionary benefits including G.P.F. and Gratuity of Shyamal Kumar Sikdar in favour of the applicants as per W.B.S. (D.C.R.B.) Rules.”*

In this application, the applicant no. 1 claims to be the wife of Shyamal Kumar Sikdar, who was an employee under the Government of West Bengal and had retired on 31<sup>st</sup> January, 2013 from service. It has been stated that *“Shyamal Kumar Sikdar previously married to Sumita Sikdar, the respondent no. 3 herein who was the first wife but due to marital dispute Shyamal Kumar Sikdar and respondent No. 3 both have been separated each other and filed their dissolution of their marriage. Subsequently, Shyamal Kumar Sikdar had married to the applicant no. 1 and their marriage was solemnized on 17.04.2002 as per the Hindu rites and customs. During the wedlock of their marriage one son the applicant no. 2 was born on 07.01.2004 and one daughter the applicant no. 3 as born on 23.06.2008 who are minor up till now”*[Paragraph 6(iii)] Shyamal Kumar Sikdar expired on 7<sup>th</sup> May, 2020 leaving behind the applicants as his legal heirs and successors who are in financial distress. It has been stated in the said application, the applicant no. 1 made a representation to the authorities on 24<sup>th</sup> November, 2020 for release of family pension and all pensionary benefits

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including G.P.F. and Gratuity of Late Shyamal Kumar Sikdar which has been withheld.

In OA-232 of 2022-Smt. Sumita Sikder, the applicant has stated that she is the wife of Shyamal Kumar Sikdar, who superannuated on 31<sup>st</sup> January, 2013. The marriage between the applicant and her late husband was held on 17<sup>th</sup> April, 1980 as per the Special Marriage Act, 1954 and two male children were born. It has been stated *“the matrimonial tie between the applicant and her husband had been subsisting till the last breath of her husband. The marital relation was never dissolved by the Decree of Divorce or declared as void/voidable marriage by any court of law. The said retired Government employee died on 7<sup>th</sup> May, 2020 leaving behind the present applicant as widow and two sons viz. (a) Swarup Kumar Sikder and (b) Sourav Sikdar being class-1 legal heirs, who are entitled to inherit the movable and immovable assets left behind by the said deceased employee” [Paragraph 7(iii)].* It appears from the said application that the marital relation between Sumita Sikder and late Shyamal Kumar Sikdar got strained and there were judicial proceedings as evident from paragraphs 7 (iv) to (vi) of the application including criminal proceedings, which were pending, Shyamal Kumar Sikdar was given suspension allowance. After the husband of the applicant superannuated on 31<sup>st</sup> January, 2013 interim allowance was given till his death. It is submitted by the learned advocate for the applicant in OA-232 of 2022 that since marital tie between the applicant and late Shyamal Kumar Sikdar was not dissolved by the decree of divorce, orders as prayed for may be passed. In the said application, that is OA-232 of 2022, Sumita Sikder, the applicant, has prayed for certain reliefs, the relevant portion of which is as under :

*“.....(A) Pass an order declaring that the impugned order dated*

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*20.01.2022 is liable to be set aside and command upon the state respondents to disburse the family pension and other admissible service benefits of the deceased employee exclusively in favour of the applicant.*

*(B) To pass an order commanding upon the respondent authorities to disburse the family pension in favor of the applicant; arrear pension of her husband and other admissible service benefits within stipulated period of time.”*

The relevant portion of the impugned order is as under :

*“.....Considering all the aspects and consulting with rules and orders which are in force under WBS (DCRB) Rules, 1971, the Deputy Secretary, P&AR Department (General Cell), PSA of the instant case, is requested to take necessary step to disburse retirement benefits in favour of the legal hires of the deceased Govt. Employee Shyamal Sikder as per extant rules applicable under this Govt.*

*All the documents received from the claimants are transmitted to the PSA for taking necessary action at his end.”*

Since the dispute is civil in nature, considering the facts and circumstances of the case, the applications are disposed of by granting liberty to the applicants to move before the appropriate civil forum for redressal of their grievances, if any, in accordance with law as no order can be passed by the Tribunal for want of jurisdiction on deciding the civil right. The State respondents are at liberty to proceed after the judgment and order is passed by the competent civil court, if the applicants file applications, if so advised.

CSM/SS

**(SOUMITRA PAL)  
CHAIRMAN**