

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

**Bikash Bhavan, Salt Lake, Kolkata – 700 091.**

**Present-**

**The Hon'ble SAYEED AHMED BABA, Officiating Chairperson & Member (A)**

**Case No. – OA-636 of 2019**

**Mst. Anowara VERSUS – The State of West Bengal & Ors..**

Serial No. and Date of order For the Applicant : Mr. G.P. Banerjee,  
Learned Advocate.

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16.02.2023 For the State Respondents : Ms. R. Sarkar,  
Mr. S. Deb Roy,  
Mrs. A. Bhattacharya,  
Departmental Representatives.

For the Pr. A.G.W.B. Mr. B. Mitra.

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 638-WBAT/2J-15/2016 (Pt.-II) dated 23<sup>rd</sup> November, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

On consent of the learned counsels for the contesting parties, the case is taken up for consideration sitting singly.

In this application the prayer is for releasing the family pension to the applicant after death of her husband after retirement. Mr. Banerjee relies on Rule 101 (2) of D.C.R.B. Rules, 1971 which states that an employee having completed three years of service is entitled for family pension subject to certain conditions. One of the conditions is that the applicant should have received the gratuity.

Ms. Sarkar submits that the Rule was modified and a notification was issued on 30.07.2007 to the effect that the word "Gratuity" has been deleted. Ms. Sarkar also submits that as per the Annexure R-I appearing in their reply, it is evident that the applicant had received service gratuity and not retirement

gratuity. Mr. Banerjee informs that an employee is entitled for pension if he had received retirement gratuity or service gratuity.

Submission of the state respondent is that since the applicant did not serve ten years and above and the service gratuity which he had received does not entitle his legal heir to any family pension. Besides, the Rule 101 has been modified to the extent that receipt of gratuity does not enable a family of the deceased to get family pension.

Mr. Banerjee prays for accommodation to controvert the notification dated 30.07.2007 by the next date. A copy has been served to him and received.

Let the matter appear under the heading Hearing on **15.05.2023.**

SAYEED AHMED BABA  
OFFICIATING CHAIRPERSON & MEMBER(A)

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