

ORDER SHEET

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

THE HON'BLE SAYEED AHMED BABA, OFFICIATING CHAIRPERSON AND ADMINISTRATIVE MEMBER

Case No. – OA - 692 of 2021

**Kalpana Das - Vs - The State of West Bengal & Ors.**

Serial No. and  
Date of order

15  
10.01.2025

For the Applicant	:	None.
	:	
For the State Respondents		Mr. G.P. Banerjee, Learned Advocate.
For the private respondent		Mr. A.N. Chakraborty, Learned Advocate.
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 23rd November, 2022 issued in exercise of the powers conferred under Section 5 (6) of the Administrative Tribunals Act, 1985.

The applicant Kalpana Das has filed this application praying for a direction to the respondent authorities to sanction and release all retiral benefits including family pension as wife of the deceased employee, Sanatan Das. Sanatan Das had died on 14.10.2015 while working as a Helper under the Housing Construction Division No. 2. On the other side, the private respondent, Sona Rani Das had lodged a complaint against the deceased employee Sanatan Das before the Shibpur Police Station, Howrah under Section 498 (A) of Indian Penal Code. She also claims to be the first wife of the deceased employee after her marriage was solemnized in the year 1968.

From the submissions of the learned counsels and

examination of the records, it is clear that the applicant Kalpana Das had presented several relevant documents to substantiate her claim of being the wife of the deceased employee, like marriage certificate, joint photograph, identity cards etc. Her name also features in the official records, in particular, in Single Comprehensive Form filled up by the deceased employee, Sanatan Das in which her name, Kalpana Das has been recorded as wife. Similarly in the application for sanction of pension, the name of Kalpana Das is recorded as recipient of Family pension in the event of death of the employee. In short, the documents so presented by the applicant's side satisfy the Tribunal that she is the wife of Sanatan Das, the deceased employee. Though the counsel for the private respondent has early submitted that Sona Rani Das is the first wife of the deceased employee and her marriage was solemnized in the year 1968, but neither any copy of marriage certificate has been presented nor any other documents either to establish her identity as wife of the deceased employee. What has been relied by the private respondent's side is a copy of the order of Ld. Chief Judicial Magistrate, Howrah in Miscellaneous Case No. 83 of 2013 relating to 125 of Crpc in which an interim maintenance was allowed in favour of the private respondent. The Ld. Magistrate has recorded in the order that "Prima facie shows that the petitioner is the legally married wife of the O.P. Therefore, there exists no confusion regarding status of the petitioner to get maintenance." Besides the observations of the Ld. Magistrate being satisfied of her identity as the wife, a copy of Aadhar card

presented also shows name of Sona Rani Das with husband's name recorded as Sanatan Das.

Having noted the observation of Ld. Chief Judicial Magistrate, Howrah the Tribunal is satisfied that the private respondent is the wife of the deceased employee though her marriage with her husband was not cordial. Although in this application the applicant's side has disputed the claim of the private respondent to be the wife but leaning on the Ld. Chief Judicial Magistrate's observation, the Tribunal accepts the name of private respondent Soni Rani Das as the wife of the deceased employee, Sanatan Das.

Having settled the issue of the identity of the private respondent in the foregoing paragraphs, now the Tribunal has to consider the issue of the Death-cum-retirement benefits of the deceased employee. The applicant has of course satisfied the Tribunal with the documents of her being one of the wives of the deceased employee. Such evidence is also clearly available in the service records of the deceased employee. However, the fact that the private respondent is also the wife, perhaps the first wife, cannot be ignored so far sanction and release of Death-cum-retirement benefits are concerned. Although the marital relationship between the private respondent and the deceased employee was not cordial but the fact that the marriage still survived cannot be ignored. The Tribunal is also aware that during the subsistence of the first marriage, with Sona Rani Das the second marriage contracted by the deceased employee with Kalpana Das, the

applicant was a void marriage in terms of section 11 of Hindu Marriage Act, 1955. But it also cannot be ignored that she was the wife and living harmoniously with the deceased employee. Further, the deceased employee recorded her name as nominee in all the service records.

Having thus observed above points, the Tribunal in all fairness and equity and justice is of the opinion that mere legitimacy of a marriage per-se does not take away the right so accrued by the second wife, the applicant as she may not be aware of the marriage that took place between the private respondent and the deceased employee during subsistence of their marriage. As per Note 2 of Rule 104 of WBS (DCRB) Rules, 1971 it would be fair enough to disburse the retiral benefits of the deceased employee in equal share as the said Rule quoted below enables the authorities for such disbursement.

*Finance Dep;t. Memo No. 1097-F(Pen) dated 18.06.1991 states the following :-*

*# Note – Where a Government servant is survived by more than one widow, the family pension shall be paid to them in equal shares. On the death of a widow her share of the pension shall become payable to her eligible minor children. If at the time of her death a widow leaves no eligible minor child the payment of her share of the pension shall cease.*

*(In case the, minor children are twins, the family pension shall, if the twins are of the same sex, he divided between them in equal shares. If the twins are of different sexes, the family pension*

*shall be paid to them in accordance with the provisions of this rules)*

*[Provided that where the deceased government servant or pensioner is survived by a widow but has left behind eligible child or children from another wife who is not alive, the eligible child or children shall be entitled to the share of family pension which the mother would have received, if she had been alive at the time of the death of the Government servant or pensioner].*

In view of the above observations Respondent No. 3, Executive Engineer is thus directed to sanction family pension and other retiral benefits like GPF, GISS., Leave Salary and Gratuity with arrears to both Kalpana Das and Sona Rani Das in equal shares within a period of four months from the date of communication of this order.

The application is disposed of.

**(SAYEED AHMED BABA)**  
**OFFICIATING CHAIRPERSON AND MEMBER (A)**

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