

ORDER SHEET

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 757 of 2022

Dipali Banerjee -- VERSUS – The State of West Bengal & Ors.

Serial No. and
Date of order

For the Applicant : None
For the State Respondent : Mr. G.P. Banerjee,
Ld. Advocate.
For the Pr. A.G. (A&E), WB : Mr. B. Mitra,
Ld. Depttl. Rep.

08

04.04.2024

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.

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

In item 16 of today's Cause list, the Secretary, Education Department has been wrongly mentioned as the respondent instead of Home & Hill Affairs Department. Let such correction be made by the Registry.

Ms. Halder had argued on the previous day that Tapan Kumar Banerjee, a deceased Government employee used to receive both military as well as a civil pension. In support, attention was drawn to PPO dated 04.10.2013 in favour of the deceased employee for ₹ 9,765/-. Contention is that if the deceased husband while alive was receiving both military as well as civil pension from the State Government then as widow and legal heir this applicant is also entitled to receive both the pensions.

Mr. Mitra, Ld. Departmental Representative responds that though the deceased employee received both the pensions, but after his death, the Rule does not allow family pension to the widow of the deceased Government employee. Mr. Mitra refers to Rule 194A (b) of West Bengal Services (Death-cum-Retirement Benefits) Rules, 1971. The specific Rule as referred is as under :

“194A (b) retires from civil re-employment under the State Government after becoming eligible for pension therefore, he shall exercise an

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option at the time of applying for pension for civil service either to be governed by family pension under the rules of the State Government or to avail of family pension benefit as authorised at the time of retirement/discharge from military service and the said option, once exercised, shall be final.”

Further, Mr. Mitra presents a copy of correspondence dated 24.05.2018 in which the Finance Department has replied to the clarifications sought by Deputy Accountant General (Pension), Treasury Buildings which is as under :

Queries	Replies
1. Whether the Govt. of W.B. has adopted the order of GOI of No. 01(05)-2010-D (Pen/Policy of GOI) dated 17.01.2013.	1. The reply, as of now, may be treated as negative.
2. If the policy of the Govt. does not permit to amend the DCRB rules i.e. 194A of WBS (DCRB) Rules, 1971.	2. The policy of Dual Family Pension in question is not under consideration at present.

Submission of Mr. Mitra is, as evident from the above two responses, it is clear that the legal heirs of a military pension holder is not entitled to receive both military and civil pensions at the same time, simultaneously.

Mr. G.P. Banerjee also draws attention to a reference dated 25.09.2018 from the Deputy Commissioner of Police to the applicant. In this correspondence, the respondent, Deputy Commissioner of Police had clearly expressed that under the relevant rules, dual family pension is not admissible to her. Mr. Banerjee further submits that this communication in the year 2018 has not been assailed by the applicant till now.

Having heard the submissions of the learned counsels and after examination of the relevant rules, it is the finding of this Tribunal that the prayer for Civil family pension is not admissible. The submissions and the rules relied on makes it clear that a legal heir receiving the military pension is not entitled to receive the family pension also. It is not a valid argument that since the deceased husband was receiving both the military and family pension, therefore, she is also entitled to receive both. Since the rules are clear

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about dual pension, therefore the prayer in this application does not deserve any consideration, and therefore, it is disposed of without passing any orders.

SAYEED AHMED BABA
Officiating Chairperson & Member (A)

A.K.P.