

**ORDER SHEET****WEST BENGAL ADMINISTRATIVE TRIBUNAL****Present-**

**Hon'ble Justice Soumitra Pal, Hon'ble Chairman.**  
**& Hon'ble Dr. Subesh Kumar Das, Administrative Member.**

CASE No. OA 1080 of 2014.

SMT. MAKHANI HAMBAM -Vs- THE STATE OF W.B. & ORS.

Serial No. and Date of order. 1	Order of the Tribunal with signature 2	Office action with date and dated signature of parties when necessary 3
<p>23</p> <hr/> <p>16.4.2019.</p>	<p>For the Applicant : Md. Nure Zaman, Advocate.</p> <p>For the State Respondent : Mr. Biswa Priyo Roy, Advocate.</p> <p>In this application Makhani Hambram, the applicant has prayed for the following reliefs :-</p> <p><i>"a) ...An order to commanding the Respondent Authorities to issue the family pension to the applicant as per G.O. No. 959-F(Pen), dated 20.07.1995 setting aside the order of the Respondent No. 3 dated 1<sup>st</sup> April, 2014;</i></p> <p><i>b) An order to commanding the Respondent No. 2 to release the Pensionery benefits to the applicant with immediate effect because the mother of the applicant became permanent employee on and from 7<sup>th</sup> June, 1990 after completion of all formalities including the medical fitness examination and as such the applicant is entitled for family pension since 23<sup>rd</sup> December, 1990;</i></p> <p><i>c) An order commanding the Respondent to produce relevant records of the instant case so the justice may be administered....".</i></p> <p>It appears that the applicant is the widowed</p>	

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	<p>daughter of late Sabari Murmu, who was a permanent Group D employee of Agriculture Department of Sisal Plantation Firm, Rajnagar at district Birbhum under the Assistant Director of Agriculture (F), Government of West Bengal. It appears from records that earlier the mother of the applicant had worked on seasonal basis as field labourer since 1985 and became permanent on 7<sup>th</sup> June, 1990 and had expired on 22<sup>nd</sup> December, 1990. In paragraph 4(x) of the rejoinder filed by the applicant it has been stated that <i>“she worked more than six months fifteen days as permanent staff”</i>.</p> <p>Mr. Nure Zaman, learned advocate appearing on behalf of the applicant relying on the memorandum dated 22<sup>nd</sup> March, 1973 and the rule 4 of the West Bengal Services (Death-cum- Retirement benefits) Rules, 1971 submits that though the mother of the applicant had worked permanently for less than one year, in view of the relaxation stipulated in rule 4, taking into account her past service, appropriate order may be passed. Reliance has also been placed on the memorandum dated 20<sup>th</sup> June, 1995 issued by the Finance Department, Audit Branch, Pension Cell, Government of West Bengal,</p>	

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	<p>Kolkata, the memorandum dated 16<sup>th</sup> December, 1983 and memorandum dated 20<sup>th</sup> September, 2010 in support of his submission. Submission is since the applicant belongs to the lower strata of society, appropriate order may be passed so that the applicant may be benefitted.</p> <p>Mr. Biswa Priya Roy, learned advocate appearing on behalf of the respondent submits that since the applicant had worked for six months and fifteen days as a permanent staff of the Government, which is less than one year, Clause 5 of the memorandum dated 20<sup>th</sup> July, 1995 is not applicable. Further, the memorandum dated 22<sup>nd</sup> March, 1973 is not applicable as it speaks of grant of pension to be calculated upon last twelve months of service instead of three years. The memorandum dated 16<sup>th</sup> December, 1983 is inapplicable as it is for calculation of length of service for retirement benefits in the light of Rule 62 of the West Bengal Services (DCRB) Rules, 1971. Besides that the memorandum dated 20<sup>th</sup> September, 2010 speaks about the extension of benefits of family pension to unmarried, widow/divorced daughter of a Government pensionary.</p>	

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	<p>Heard learned advocates for the parties.</p> <p>Assuming the mother of the applicant had worked as a seasonal/temporary staff from 1985 as stated in the original application or from 1978 as stated in the rejoinder, admittedly she was appointed as a permanent staff on 7<sup>th</sup> June, 1990 and had expired on 22<sup>nd</sup> December, 1990, which means that she was in permanent service for six months fifteen days, that is less than one year. In this regard, it is appropriate to mention the memorandum dated 20<sup>th</sup> July, 1995, the relevant portion of which is as under:-</p> <p><i>“Subject .....Family pension scheme for state Govt. Employees extension of the benefit to families of Govt. employee who die in the harness before completion of one year’s service.....”.</i></p> <p><i>“ 5 .....This order will take effect from the date of issue and shall not be applicable to the families of those Govt. servants who died before completion of one year’s continuous service before the date of issue of this order...”.</i></p> <p>Since the mother of the applicant was a State Government employee for less than one year and the</p>	

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	<p>memorandum does not speak for extension of benefits taking into account the past seasonal/temporary service and as the said memorandum has not been given retrospective effect, no order can be passed on this application.</p> <p>The memorandum dated 22<sup>nd</sup> March, 1973 is inapplicable as it relates to measures for further liberalisation and simplification of the pension rules. It speaks of additional benefits in respect of pension will be given such as average emoluments for the purpose of grant of pension to be calculated upon last twelve months of service instead of three years.</p> <p>The memorandum dated 16<sup>th</sup> September, 1983 is regarding calculation of the length of qualifying service for retirement benefits in terms of Rule 62 of W.B.S.(D.C.R.B.) Rules, 1971 and it is not regarding eligibility to grant family pension to a widowed daughter.</p> <p>So far as the memorandum dated 20<sup>th</sup> September, 2010 is concerned, it speaks of extension of the benefit of family pension to an unmarried /widowed/divorced daughter of a Government</p>	

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	<p>employee/pensioner whose spouse predeceased him/her.</p> <p>Rule 4 of the 1971 rules which has been relied on has nothing to do with the subject matter of the case as it stipulates that nothing in the said rule abridges the power of the Governor to dispense with or relax the requirements of any of the rules as may be considered necessary for dealing the case in a just and equitable manner. In the instant case, no order has been shown to have been issued under the said rule relaxing the conditions for the benefits of a widowed daughter of a Government employee who has served as a permanent Government staff for less than one year.</p> <p>Hence as the memorandum dated 20<sup>th</sup> July, 1995 is not applicable and as the mother of the applicant did not perform Government service for at least one year to make her daughter eligible for family pension, the impugned order dated 1<sup>st</sup> April, 2014 cannot be interfered with. Therefore, the question of grant of</p>	

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Skg.	<p>family pension to the applicant does not arise. Thus, the application is dismissed.</p> <p>(Subesh Kumar Das) Member(A).</p> <p>(Soumitra Pal) Chairman.</p>	

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