

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

The Hon'ble Justice Soumitra Pal.
& The Hon'ble Dr. Subesh Kumar Das.

Case No – OA 1116 of 2017.

Bimal Kumar Pal -Vs The State of West Bengal & 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>05 24.07.2018.</p>	<p>For the Applicant : Mr. Sujit Kumar Mitra, Advocate.</p> <p>For the State Respondent : Mr. G.P. Banerjee, Advocate.</p> <p>The applicant was appointed as Guardsman in the Office of the Commandant, Border Wing Home Guards Battalion and had superannuated on 31st August, 2017. The applicant has, inter alia, prayed for “...An order directing and/or commanding the Respondent Authorities to consider the application of the applicant and to give him pension and other benefits as he is eligible to receive his pension....”.</p> <p>It appears from the application that the applicant about forty years back while in service had married one Nandarani Pal in accordance with the Hindu rites and customs and had two children. Due to certain disputes the first wife left her matrimonial home after four years of marriage and started living with her parents. After about two years of such incident the applicant left his wife and married Jamuna Pal on 7th March, 1978. It appears from paragraph 6.6 that since the applicant was not aware about the provisions of Hindu Marriage Act</p>	

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	<p>and later coming to know about the legal provisions he filed a matrimonial suit, being MAT Suit No. 10 of 2005, before the learned Additional District & Sessions Judge, Fast Track Court-IV, Krishnanagar praying for a decree of divorce from his first wife. By a judgement delivered on 28th June, 2010 it was dismissed. On 17th June, 2011 he registered his second marriage with Jamuna Pal under the Hindu Marriage Act, 1955. It has been stated in paragraph 6.9 of the application that in the Service Book he had nominated his second wife as his nominee. On coming to know about such information, the first wife by a letter dated 27th July, 2016 made a representation to the Commandant for making necessary correction in the Service Book by making her the only nominee. The applicant after having superannuated submits that since he has retired and no steps have been taken to disburse pensionary benefits, appropriate order may be passed for disbursing pension.</p> <p>On a query, Mr. Mitra, learned advocate for the applicant submits that departmental proceedings have been initiated against his client on the last date of his retirement. It is orally submitted by Mr. Mitra that pending departmental proceedings, provisional pension</p>	

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	<p>may be granted.</p> <p>Mr. Banerjee, learned advocate on behalf of the State submits that as departmental proceedings are continuing and since the petitioner has married again which is not permissible under the provisions of the Hindu Marriage Act, he is not entitled to get regular pension. However, since the applicant on 7th June, 2018 has filed an application before the Commandant for grant of regular pension, the Commandant by a memo dated 28th June, 2018 has sent the necessary papers for grant of provisional pension in accordance with law to the Principal Accountant General (A & E) West Bengal, Kolkata . Copies of such documents filed by Mr. Banerjee be kept on record.</p> <p>Having heard the learned advocate for the parties and considering the facts and circumstances of this case, in our view since the departmental proceedings have been initiated during the service period of the applicant, no order can be passed as prayed for in the application. However, as an application has been filed by the applicant for grant of provisional pension and since it has been forwarded by the Commandant to the appropriate authority , the authorities are at liberty to</p>	

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Skg.	<p>process the representation for the grant of provisional pension expeditiously in accordance with law.</p> <p>(Subesh Kumar Das) Member (A)</p> <p>(Soumitra Pal) Chairman.</p>	