

ORDER SHEET
West Bengal Administrative Tribunal

Present.-
The Hon'ble Justice Ranjit Kumar Bag
&
The Hon'ble Dr. Subesh Kumar Das

Case No. **OA-233 of 2017**

Rasana Mahato

Versus

The State of West Bengal & Ors.

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12 <hr/> 26/08/2019	<p>For the Applicant : Mrs. S. Mitra, Ld. Advocate.</p> <p>For the State Respondent : Mrs. S. Agarwal, Ld. Advocate.</p> <p>Liberty is given to the applicant to amend prayer portion of the original application for the purpose of deleting prayer for compassionate appointment and for inclusion of grant of other retirement benefits of the deceased government employee in course of this day.</p> <p>One Mriganka Mahato died on May 01, 1999 while he was working as Work Guard under respondent no. 2, the Executive Engineer, Housing Construction Division No. V, Durgapur. He died leaving behind 03 (three) wives one Pramila Mahato, Menoka Mahato and Rasana Mahato, one daughter Puspa Rani Mahato and 02 (two) sons Rabindra Nath Mahato and Tapan Kumar Mahato as legal heirs. By issuing legal heirship certificate the Block Development Officer, Puncha Development Block has ascertained that the applicant - Rasana Mahato (the third wife of Mriganka Mahato), Puspa Rani Mahato (born from the wedlock between Mriganka Mahato and his second wife Menoka Mahato), Rabindanath Mahato and Tapan Kumar Mahato (two sons born from the wedlock between Mriganka Mahato and his third wife Rasana Mahato) are legal heirs of the deceased Mriganka Mahato. The applicant Rasana Mahato has prayed for</p>	

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	<p>her family pension and compassionate appointment of her son - Rabindranath Mahato, but subsequently prayer for compassionate appointment was deleted and prayer for family pension and other retirement benefits were included by way of amendment.</p> <p>Having heard Learned Counsel appearing for both the parties and on consideration of the materials on record, we find that Mriganka Mahato contracted first marriage with Pramila Mahato in the year 1968 and no child was born from the said wedlock. Mriganka Mahato contracted second marriage with Menoka Mahato in the year 1970 and one daughter by name Puspa Rani Mahato was born from the said wedlock. The first wife Pramila Mahato died in the year 2002 i.e. after 03 (three) years of death of the employee Mriganka Mahato. So, the second marriage between Mriganka Mahato and Menoka Mahato took place during the existence of marital tie between Mriganka Mahato and his first wife Pramila Mahato. Similarly, Mriganka Mahato contracted third marriage with the applicant Rasana Mahato when the marital tie of the first wife Pramila Mahato was intact. The natural corollary is that the third marriage of Mriganka Mahato with the applicant Rasana Mahato took place during the existence of the marital tie between Mriganka Mahato and his first wife Pramila Mahato. Since the second marriage and the third</p>	

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	<p>marriage of Mrignaka Mahato took place during the existence of marital tie between Mriganka Mahato and his first wife Pramila Mahato, we are of the view that the second marriage and the third marriage of Mriganka Mahato are void in terms of provisions of section 5 (i) read with section 11 of the Hindu Marriage Act, 1955. However, 01 (one) daughter born from the wedlock of the second marriage and 02 (two) sons born from the wedlock of the third marriage of Mriganka Mahato are entitled to inherit the property of Mriganka Mahato as legitimate daughter and sons in terms of the provisions of section 16 of the Hindu Marriage Act, 1955. The legal heirship certificate issued by B.D.O., Pancha Development Block is not in accordance with the provisions of law and as such the same can not be acted upon.</p> <p>We have already observed that the first wife of Mriganka Mahato namely Pramila Mahato died in the year 2002 and the second marriage and the third marriage of Mriganka Mahato are void and the second wife also died in the year 2014 and as such the present applicant Rabindra Nath Mahato cannot claim either family pension or death benefits of Mriganka Mahato as legally married wife. The daughter namely Puspa Rani Mahato born from the second marriage of Mriganka Mahato is married and aged about 44 years at the time</p>	

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	<p>of issuance of legal heirship certificate in the year 2014. The 02 (two) sons – Rabindra Nath Mahato and Tapan Kumar Mahato also attained 22 and 21 years of age at the time of issuance of legal heirship certificate in the year 2014. Accordingly, no legal heir of Mriganka Mahato is entitled to get family pension in terms of the provisions of section 7 (e)(2) of the West Bengal Services (death-cum-retirement benefits) Rules, 1971 (in short, D.C.R.B. Rules, 1971).</p> <p>The married daughter is not entitled to get share of the amount of General Provident Fund and the amount of Death Gratuity of the deceased government employee, though the married daughter is entitled to get share of amount of Group Insurance and leave salary of the deceased government employee in terms of the provisions of West Bengal Services (G.P.F.) Rules and the D.C.R.B. Rules, 1971. The 02 (two) sons of the deceased Mriganka Mahato are entitled to get both the amount of G.P.F. and the amount of Death Gratuity in equal half share and the married daughter Puspa Rani Mahato and 02 (two) sons Rabindranath Mahato and Tapan Kumar Mahato are entitled to get the amount of Group Insurance and leave salary in equal 1/3rd share in terms of the provisions of West Bengal Services (death-cum-retirement benefits) Rules, 1971.</p>	

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Csm	<p>In view of our above findings, the respondent no. 2, the Executive Engineer, Housing Construction Division No. V, Durgapur is directed to take necessary steps for release of death benefits of the deceased Mriganka Mahato in terms of the order passed by us within a period of 12 (twelve) weeks from the date of communication of the order, if not already paid. With the above direction, the original application stands disposed of.</p> <p>Let a Plain Copy of the order be supplied to both parties.</p> <p style="text-align: center;">S. K. DAS MEMBER(A)</p> <p style="text-align: center;">R. K. BAG MEMBER(J)</p>	