

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

The Hon'ble Mrs. Urmita Datta (Sen), Member(J)

The Hon'ble Mr. P. Ramesh Kumar, Member(A)

Case No – OA- 348 of 2019.**Jhuma Roy Pradhan. Vs The State of West Bengal & Others.**

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>3</p> <hr/> <p>29/07/2019</p>	<p>For the Applicant : Mrs. P. Chatterjee, Ld. Advocate.</p> <p>For the State Respondents: Mrs. S. Agarwal, Ld. Advocate.</p> <p>A.G. West Bengal: Mr. B. Mitra, Departmental Representative.</p> <p><i>Affidavit of service filed be kept on record.</i></p> <p><i>The instant application has been filed praying for direction upon the respondent to disburse the family pension in favour of the applicant. As per the applicant, her husband died on 14.02.14. As per the applicant she got married with the ex-employee on 16.04.10 and out of the said wed-lock one son called Rishav Roy born on 13.01.11. After the death of the said employee the applicant approached the authority for disbursement of pension and other pensionery benefits.</i></p> <p><i>As per the applicant, District Magistrate, Jalpaiguri had issued legal heir certificate on 18.05.16 and however, she has filed one Title Suit No.444 of 2015 before the Ld. Civil Judge (Junior Division) Alipurduar for declaration that she is</i></p>	

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	<p><i>legally married wife wherein she prayed for injunction also with regard to disbursement of retiral dues in favour of another lady whose name is in the service book of ex-employee. However, the said prayer was rejected vide order dated 18.01.2017. Therefore, she preferred one Miscellaneous Appeal No.2 of 2017 before the Ld. Additional District Judge at Alipurduar, which is still pending. Therefore, she has filed the instant application praying for an interim order of injunction to restrain the state respondents to disburse any retiral benefits in favour of the respondent No.5.</i></p> <p><i>However, the counsel for the respondent has vehemently objected to the contention of the application. As per the counsel for the respondent the name of the respondent No.5 is already in the service book of the ex-employee. Further, no divorce was taken place between the ex-employee and the respondent No.5 till the death of the ex-employee. Further, the counsel for the respondent has placed one Memo No.475/RO dated 27.3.15 by which the prayer of the applicant was already regretted by the respondent on the ground that being a second wife during the life time of the first wife, she is not entitled for any pensionary benefit. It has been</i></p>	

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	<p><i>further submitted by the counsel for the respondent that even her civil suit was also rejected and an appeal is still pending. Therefore, at present she has no claim as a wife of the deceased employee for pensionary benefits.</i></p> <p><i>Heard the parties. Let the rejection letter dated 27.03.15 be kept on record. It is noted that the applicant is fully aware of the presence of the respondent No.5, who is the first wife of the ex-employee as per the service record and was also alive. Even if the marriage registration certificate of the applicant has to be considered, it is noted that the said marriage was taken place in the year 2010 only. However, it is also noted that the prayer of the applicant was rejected on 27.03.15, which has not been challenged before this Tribunal rather the applicant had preferred to approach before the Civil Court under Title Suit for a declaration as wife of the deceased employee, which is still pending. Even though she has approached this Tribunal without challenging the rejection order.</i></p> <p><i>Therefore, in our considered view, the applicant cannot approach both the forum. Further her case was already rejected by the respondent. We do not find any reason to entertain the instant</i></p>	

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GM	<p><i>application. Accordingly, the OA is dismissed being devoid of merit with no order as to costs.</i></p> <p>P. RAMESH KUMAR MEMBER(A) URMITA DATTA (SEN) MEMBER(J)</p>	