

**ORDER SHEET**  
**West Bengal Administrative Tribunal**

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

Case No. **OA-402 of 2017**

Maya Ghosh

Versus

The State of West Bengal & Ors.

Serial No. and date of order	Order of the Tribunal with signature	Office action with date and dated signature of parties when necessary.
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11 <u>21/08/2019</u>	<p><b>For the Applicant</b> : Mr. G.N. Bhattacharya, Ld. Advocate.</p> <p><b>For the State Respondent</b> : Mr. S.N. Ray, Ld. Advocate.</p> <p><b>For the Rspndt. No. 6</b> : Mr. S.S. Basu, Ld. Advocate.</p> <p>The applicant has prayed for direction upon the respondents for grant of family pension and release of death benefits of her deceased husband Nityananda Ghosh.</p> <p>One Nityananda Ghosh died on December 04, 2014 while he was working as Water Transmission Assistant in the establishment of the Superintending Engineer (Agri Irrigation), Agri Irrigation Circle. The contention of the applicant is that she was married to Nityananda Ghosh on November 30, 2011 as per Hindu rites and religion. The further contention of the applicant is that she lived with Nityananda Ghosh as husband and wife till his death.</p> <p>The private respondent no. 6 also claims to be the wife of the deceased Nityananda Ghosh. A child was born from the wedlock between Nityananda Ghosh and the private respondent Sumitra Ghosh on April 29, 1987. The said private respondent got the order of maintenance from her husband Nityananda Ghosh w.e.f.</p>	

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	<p>May 05, 2008 by order of Learned Judicial Magistrate, 3<sup>rd</sup> Court, Krishnanagar.</p> <p>The issue for consideration of the Tribunal is whether the applicant is entitled to get family pension of Nityananda Ghosh as legally married wife.</p> <p>Having heard Learned Counsel representing the respective parties and on consideration of the materials on record, we find that the private respondent Sumitra Ghosh filed an application u/s 125 of the Code of Criminal Procedure against the deceased employee Nityananda Ghosh on May 05, 2008 before the Court of Learned Judicial Magistrate, 3<sup>rd</sup> Court, Krishnanagar. On March 19, 2012 Learned Judicial Magistrate disposed of the proceeding u/s 125 of the Court of Criminal Proceeding (MR No. 283(IV)/08/TR378 of 2008) by directing Nityananda Ghosh to grant maintenance to the private respondent Sumitra Ghosh @ ₹ 2500/- per month with effect from the date of filing the said application i.e. May 05, 2008. It appears from the said judgment passed by Learned Judicial Magistrate that the deceased employee Nityananda Ghosh admitted the fact of marriage between the deceased employee Nityananda Ghosh and the private respondent Sumitra Ghosh. Admittedly, one daughter by name Sarmistha Ghosh was born from the wedlock between Nityananda Ghosh and Sumitra Ghosh and the date of birth of the</p>	

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	<p>said daughter is April 29, 1987. We can very well infer from the above circumstances that the marriage between Nityananda Ghosh and the private respondent Sumitra Ghosh must have taken place atleast in the year 1986 or before that.</p> <p>The specific contention of the applicant Maya Ghosh is that her marriage with Nityananda Ghosh was solemnized on November 30, 2011 as per Hindu rites and religion. There is nothing on record to indicate that the marital tie between Nityananda Ghosh and the private respondent Sumitra Ghosh was snapped at any material point of time when the marriage of the applicant Maya Ghosh was solemnized with Nityananda Ghosh on November 30, 2011. Since the marriage of the applicant with Nityananda Ghosh was solemnized during existence of marital tie between Nityananda Ghosh and the private respondent Sumitra Ghosh and since the parties are governed by provisions of Hindu Law, we are of the view that the marriage between Maya Ghosh and the deceased employee Nityananda Ghosh is void in terms of provisions of Section 5(i) read with Section 11 of the Hindu Marriage Act, 1985.</p> <p>In view of our observation that the marriage between the applicant Maya Ghosh and the deceased employee Nityananda Ghosh is void, the applicant Maya Ghosh is not entitled to get either family pension or</p>	

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Csm	<p>death benefits of the deceased employee Nityananda Ghosh as legally married wife. As a result, the original application is <b>dismissed</b>.</p> <p>Let an <b>urgent Xerox Certified Copy</b> of the order if applied for be supplied to either of the parties on priority basis, subject to fulfillment of all necessary formalities.</p> <p style="text-align: center;"><b>S. K. DAS</b> <b>MEMBER(A)</b></p> <p style="text-align: center;"><b>R. K. BAG</b> <b>MEMBER(J)</b></p>	