

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

**The Hon'ble Justice Soumitra Pal
& The Hon'ble Subesh Kumar Das**

Case No – OA 445 OF 2017

Mohua Chakraborty 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
09 <hr/> 31.01.2019	<p><i>For the Applicant : Mr. M. N. Roy, Mr. G. Halder, Learned Advocates.</i></p> <p><i>For the Respondent No. 5 : Mr. D. Koley, Learned Advocate.</i></p> <p><i>For the Respondent No. 6 : Mrs. S. Sinha, Learned Advocate.</i></p> <p><i>For the A.G.(A&E), W.B. : Mr. B. Mitra Deptl. Representative.</i></p> <p style="text-align: center;"><i>In this application Mohua Chakraborty, the applicant has prayed for a direction upon the respondents to disburse family pension, provident fund and gratuity. It appears that the applicant is the wife of Late Samaresh Chakraborty who was working as Motor Vehicle Inspector in the office of the District Magistrate, South 24-Parganas and had expired on September 19, 2016 while in service, leaving behind the applicant and as well as the mother of the deceased and his son Souvik Chakraborty. At the very outset it is submitted by Mr. M.N. Roy, learned advocate for the applicant that during the pendency of the application family pension, provident fund have been granted. However, gratuity has been withheld on the ground that the deceased had overdrawn an amount of Rs. 8,18,385/- as evident from the memo dated July 25, 2018</i></p>	

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issued by the Officer-in-Charge Group 'C' Establishment Section, Alipur South 24-Parganas which has been annexed in the miscellaneous application. Submission is that in view of the judgment in State of Punjab & Ors. V Rafiq Masih (2015)4 SCC 334 particularly the law laid down in paragraphs 8,9 & 18 thereof, such withholding of gratuity for the recovery of the said amount is impermissible in law.

Heard Mr. M.N. Roy and Mr. D. Kole. Since it is submitted on behalf of the applicant that family pension, provident fund has been disbursed and gratuity has been withheld for recovery of the said amount of Rs. 8,18,385/-, this application is disposed of by directing, the District Magistrate, Alipur, South 24-Parganas the respondent no. 5 to disburse gratuity within a period of 12 weeks from the presentation of a copy of this order without deducting the said sum of Rs. 8,18,385 in view of the law laid down in the judgment in State of Punjab & Ors. V Rafiq Masih (Supra). The memo dated 20th July, 2017 and the memo dated 18th September, 2017 stand quashed.

(S.K.DAS)
Member (A)

(SOUMITRA PAL)
Chairman

H.S/CSM/SS