

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

**Hon'ble Justice Soumitra Pal, Hon'ble Chairman.**  
**& Hon'ble Dr. Subesh Kumar Das, Administrative Member.**

CASE No. OA 511 of 2017.  
 CHAMPA HANSDA -Vs- THE STATE OF W.B. & 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>9 21.1.2019.</p>	<p>For the Applicant : None.</p> <p>For the State Respondent : Mr. A.L. Basu, Advocate.</p> <p>For the Respondent No. 5 : Mr. M. Bhattacharya, Advocate.</p> <p>None appears on behalf of the applicant. Mr. A.L. Basu, learned advocate for the state and Mr. M. Bhattacharya, learned advocate for the respondent no. 5 are present. Since on 15<sup>th</sup> January, 2019 none had appeared on behalf of the applicant and today also none has appeared on behalf of the applicant, the matter is taken up for hearing on merit in view of the provisions contained in rule 16(1) of the West Bengal Administrative Tribunal (Procedure) Rules, 1994.</p> <p>In this application Champa Hansda claiming to be the widow of Sani Hansda, a constable of the West Bengal Police, has prayed for a direction upon the respondents to give death and retiral benefits after setting aside the impugned Pension Payment Order dated 29<sup>th</sup> July, 2016 in favour of Banashri Hansda, the private respondent no. 5. It appears that Sani Hansda while in service had expired on 19<sup>th</sup> May, 2015 leaving</p>	

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	<p>behind the applicant as stated in the application. According to the statements made in this application the marriage between Sani Hansda and the applicant was solemnised on 12<sup>th</sup> August, 2013 and was duly registered in terms of Hindu Marriage Act, 1955. It has also been stated that after the death of Sani Hansda , Banashri Hansda started claiming to be the wife of Sani Hansda. It has been stated that since she is the wife of the deceased Sani Hansda , the retirement benefits may be given to her after setting aside the Pension Payment Order in favour of Banashri Hansda. It appears that the matter was admitted. Directions were issued to file reply and rejoinder. The State as well as the private respondent No. 5 have filed their respective replies. However, no rejoinder has been filed on behalf of the applicant. It appears from the reply filed by the State respondents that Sani Hansda during his life time had married Banashri Hansda, on 31<sup>st</sup> March, 2007. It also appears that after the death of Sani Hansda as the dispute arose, the records were placed before the Joint Legal Remembrancer, Government of West Bengal, who had given an opinion, as evident from the written reply , the</p>	

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	<p>relevant portion of which is as under:-</p> <p><i>“ Perused the materials in file.</i></p> <p><i>It appears that the deceased person had two wives one is Banashri Hansda and the name of another wife is champa Hansda. For both the marriages there are marriage certificate from where it is found that the marriage is solemnised in between the deceased and Banashri Soren (Hansda) on 31/3/2007 and the marriage in between the deceased and Champa Hansda is solemnised on 15/12/2013. From the marriage certificate it is clear that the Champa Hansda is the second wife of the deceased as the marriage in between them was solemnised later. According to Hindu marriage Act second marriage on the life time of the first wife is void and the second wife is not entitled to receive any benefit as a legitimate heir but any children out of the second marriage is entitle to such benefit.</i></p> <p><i>Considering the above mentioned aspect I find that Champa Hansda is not within the purview of legal heir of the deceased constable but Banashri Hansda is the legal heir who can get benefit as per rules and if there is any child of both the wives he can get benefit within the</i></p>	

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Skg,	<p><i>meaning of the rule 7(1) e (1) &amp; (2) &amp; rule 170 of the West Bengal Service-death-retirement benefit)".</i></p> <p>It also appears that the applicant in a written communication dated 1<sup>st</sup> October, 2016 to the Officer- in-Charge, Mograhat Police Station, being annexure "Y" to the reply filed by the State, had stated she is the second wife of Sani Hansda. Since the second marriage during the subsistence of the first marriage under the Hindu Marriage Act, 1955 is void, the prayer of the applicant cannot be acceded to. Hence, the application is rejected. No order as to cost.</p> <p>(Subesh Kumar Das) Member(A).</p> <p>(Soumitra Pal) Chairman.</p>	

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