

**ORDER SHEET****WEST BENGAL ADMINISTRATIVE TRIBUNAL****Present-****The Hon'ble Justice Soumitra Pal (Chairman)****& The Hon'ble Dr.Subesh Kumar Das (Administrative Member)****Case No. OA – 626 OF 2018****MOUMITA PANDA Vs. THE STATE OF WEST BENGAL**

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 style="text-align: center;"><u>03</u> 20.11.18</p>	<p>For the Applicant : Mr.P.Pahari Advocate</p> <p>For the Respondent No. 1,2,3 and 4 : Mr.A.Datta (Departmental Representative)</p> <p>For the A.G.W.B. : Mr.B.Mitra (Departmental Representative)</p> <p>In this application, the applicant, wife of late Tanmoy Panda, Bhumi Sahayok under the West Bengal Land &amp; Land Reforms Department, has prayed for a direction upon the respondents to release family pension, gratuity and provident fund with interest @ 10 per cent per annum in her favour. It has been stated in the application that the husband of the applicant on 13<sup>th</sup> February, 2017 committed suicide at their residential house and she was unaware of the reasons which has left her in a helpless situation as there is nobody to look after her family. As stated in the application the applicant has two daughters. Since the applicant was the nominee for the entitlement of retirement benefits, on 30<sup>th</sup> May, 2017 she had filed an application before Block Land &amp; Land Reforms Officer, Contai-III for grant of family pension. It has also been stated that the father-in-law</p>	

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	<p>of the applicant had expired before the death of her husband and mother-in-law had expired after the sad demise of her husband. Mr.Pahari, learned advocate appearing on behalf of the applicant submits that since family pension and gratuity are properties of the applicant, the applicant cannot be deprived of the same. Therefore, prayer is made for release of family pension, gratuity and provident fund along with interest.</p> <p>Mr.A.Datta, the Departmental Representative, relying on the reply filed on behalf of the respondent no.2, submits that after the husband of the applicant had expired, the brother of the deceased had lodged an FIR before the Contai Police Station against the applicant and others under Section 306 and 34 of Indian Penal Code. Accordingly, G.R.Case was lodged vide no. 205 of 2017 corresponding to Contai Police Station Case No. 57 of 2017. The applicant was taken into custody by the police authorities and charge sheet has been filed under Section 306 of Indian Penal Code and served and the criminal case is pending which has not been stated in the application. Submission is in view of the pendency of the criminal case, the application for grant of retiral benefits</p>	

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	<p>cannot be processed in terms of the provision being note (vi) of Rule 100 of West Bengal Services (Death cum Retirement benefit) Rule, as amended and amended Rule 105A. Submission is the applicant is not entitled to get family pension and gratuity till the outcome of the criminal proceeding. Further the provisions contained in the Payment of Gratuity Act, 1972, in view of sections 3, 4 (e), are not applicable in case of any Government employee. Since a Government employee is guided by the Rules framed under Article 309 of Constitution of India and in view of the amended Rule 100 and Rule 105A, the applicant is not entitled to the reliefs as prayed for.</p> <p>In reply, referring to the rejoinder filed, it is submitted by Mr.Pahari, since suicide is not murder, the amendments in Rule 100 and Rule 105A in the West Bengal Service (Death cum Retirement Benefit) Rules, 1971 are not applicable and hence there was no necessity to mention in the application about the pendency of the criminal case.</p> <p>Though it has been stated in the application that the husband of the applicant had committed suicide,</p>	

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BLR	<p>however it has not been stated in the application that Chinmay Panda, brother of the deceased employee had lodged an FIR against Moumita Panda, the applicant under Section 306/34 of the IPC and a criminal case is pending. Though it has been submitted on behalf of the applicant that the unfortunate event on 13<sup>th</sup> February, 2017 is suicide and not murder and thus not mentioned in the application, however, we are of the view that since the withholding of retiral dues arises out of the incident on 13<sup>th</sup> February, 2017 and due to the pendency of the criminal proceedings, it should have been mentioned in the application. Therefore, we are of the view the said fact has been suppressed in the application. Since criminal case is pending and the charge sheet has been filed, no order can be passed at this stage. Mr.Pahari has submitted that the applicant would be in financial difficulty if no order is passed at this stage and therefore the matter may be disposed of. We are of the view, since we are not inclined to pass any order due to the pendency of criminal proceedings, the matter is disposed of.</p> <p style="text-align: center;"><b>(S.K.DAS)</b> <b>MEMBER(A)</b></p> <p style="text-align: center;"><b>(SOUMITRA PAL)</b> <b>CHAIRMAN</b></p>	

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