

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 667 of 2018.

CHHABI SUTRADHAR – VERSUS- THE STATE OF W.B. & 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 style="text-align: center;">12</p> <hr/> <p>26.8.2019.</p>	<p>For the Applicant : Mrs. S. Mitra, Advocate.</p> <p>For the State Respondent : Mr. G.P. Banerjee, Mr. B.P. Roy, Advocates.</p> <p>For the Private respondent : Mr. M.N. Roy, Mrs. S. Agarwal, Advocates.</p> <p>For the Principal Accountant General (A & E) W.B. : Mr. B. Mitra, Departmental representative.</p> <p style="text-align: center;">In this application Chhabi Sutradhar, stated to be the widow of Benoy Krishna Sutradhar, has prayed for certain reliefs, the relevant portion of which is as under :-</p> <p style="text-align: center;">“.....a) Admit this application;</p> <p style="text-align: center;">b)Call for the records of the instant case;</p> <p style="text-align: center;">c)Pass an order directing respondent no. 2 to comply with the letter dated 16th January, 2018 and 31st May, 2018 as issued by the Accounts Officer attached to the office of the Indian Audit and Accounts Department, Principal Accountant General (A & E), West</p>	

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	<p>Bengal thereby issuing fresh sanction for payment of family pension to the applicant within the time as may be specified by this Learned Tribunal;</p> <p>d) Pass further mandatory order directing the respondent authorities to complete the entire exercise for payment of family pension in favour of the applicant and upon so doing directing the Pension Sanctioning Authority to issue the family pension in favour of the applicant within the time as may be specified by this Learned Tribunal...”.</p> <p>It appears from the application that Benoy Krishna Sutradhar, Upper Division Clerk in the office of Sub-Divisional Officer, Uluberia, Howrah, had superannuated on 31st January, 2007 and had drawn pension thereafter. Benoy Krishna Sutradhar expired on 28th October, 2015 leaving behind the present applicant, as stated, the widow. It has been stated that earlier Benoy Krishna Sutradhar was married to Sova Sutradhar which was dissolved by a decree of divorce passed on 19th November, 1979 by the learned District Judge in matrimonial Suit no. 102 of 1979. Thereafter, the applicant married Benoy Krishna Sutradhar on 12th May,</p>	

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	<p>1980 which was registered before the Marriage Registrar. After the death of Benoy Krishna Sutradhar, she applied for family pension. At that time she came to know that Sova Sutradhar, the respondent no. 6 was drawing pension which according to her was illegal. Thereafter, correspondences were made as evident from the application and request was made to the authorities to investigate the matter. It appears that the District Magistrate and Collector, Howrah had issued an intimation dated 7th April, 2017 to the Principal Accountant General (A & E), West Bengal, being annexure 'F' to the application, to which we shall refer later.</p> <p>It is submitted by Mrs. S. Mitra, learned advocate for the applicant that as marriage between Sova Sutradhar and Benoy Krishna Sutradhar was dissolved in 1979 and as thereafter, on 12th May, 1980, marriage between the applicant and Benoy Krishna Sutradhar took place and marriage certificate was given, as evident from page 25 of the application, appropriate order may be passed.</p> <p>Mr. M.N. Roy, learned advocate appearing on behalf of the private respondent 6, relying on the reply</p>	

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	<p>filed on behalf of the said respondent submits that as it is evident from the pension payment order that Benoy Krishna Sutradhar had appeared in person on 29th October, 2010 before the ATO, Serampore and had declared in writing that Sova Sutradhar was his wife and had nominated her regarding life time arrears of pension, no order may be passed. Referring to page 13 of the reply it is submitted that as Benoy Krishna Sutradhar and Sova Sutradhar had declared themselves as husband and wife and had put their photographs in the official document, the applicant is not entitled to the orders as prayed for. Referring to the intimation dated 7th April, 2017, issued by the District Magistrate and Collector, Howrah – the respondent no. 2, particularly paragraph 7 thereof, it is submitted that as in the nomination paper for GPF, GI and death gratuity, the name of Chhabi Sutradhar , the applicant herein, has been mentioned as his sister and as under the provisions of the Hindu Marriage Act, 1955 the applicant and Benoy Krishna Sutradhar are sapindas and come under the degrees of prohibited relationship under section 5(iv) and (v) of the Hindu Marriage Act, and as it is a void marriage, the application is devoid of any</p>	

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	<p>substance.</p> <p>Mr. B. Mitra, the departmental representative for the Principal Accountant General (A & E) West Bengal, – the respondent no. 3, submits that the District Magistrate, Howrah has stopped pension to the private respondent no. 6.</p> <p>In reply Mrs. Mitra submits that since it is evident from the marriage certificate that the marriage between the applicant and Benoy Krishna Sutradhar took place on 12th May, 1980, appropriate order for granting pension may be passed.</p> <p>Heard learned advocates for the parties and the departmental representative.</p> <p>In the intimation dated 7th April, 2017 issued by the District Magistrate and Collector, Howrah in column “7” it has been mentioned that “...in the nomination paper for G.P.F. , G.I. & Death Gratuity, the name of Smt. Chhabi Sutradhar has been mentioned as his sister...”. We find that as the applicant has been mentioned as the “sister” of Benoy Krishna Sutradhar, the marriage with the sister is not permissible under section 5(iv) and under section 5(v) of the Act. That apart</p>	

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Skg.	<p>it is evident from the Pension Payment Order annexed to the reply filed by the respondent no. 6 that on 29th October, 2010 Benoy Krishna Sutradhar had “appeared in person” before the authorities and had declared Sova Sutradhar as his “Wife” and had nominated her for life time arrear of pension . Since the District Magistrate in his intimation dated 7th April, 2017 referring to the records had mentioned that Chhabi Sutradhar, the applicant, as the “sister” of late Benoy Krishna Sutradhar and as the intimation dated 7th April, 2017 has not been challenged in the original application, no order can be passed on this application. Hence, the application is dismissed.</p> <p>(Subesh Kumar Das) Member (A).</p> <p>(Soumitra Pal) Chairman.</p>	