

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

The Hon'ble Justice Ranjit Kumar Bag
& The Hon'ble Subesh Kumar Das

Case No OA- 808 OF 2016
SAJEDA BEGUM Vs. 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
<p><u>06</u> 18.04.18</p>	<p>For the Applicant : Mr.G.Mastafa Learned Advocate</p> <p>For the Respondent No. 1, 3 & 5 : Mr.S.Bhattacharya Ms.R.Sarkar (Departmental Representative)</p> <p>For the Respondent No. 6 : Mr.C.Mishra Learned Advocate</p> <p>For the A.G.W.B. : Mr.B.Mitra (Departmental Representative)</p> <p>The applicant has prayed for setting aside letter dated May 26, 2016 issued by the Respondent No. 2 in favour of the Respondent No. 3, by which payment of family pension in favour of the applicant was stopped.</p> <p>It appears from the materials on record that Md. Manowar Hossain retired from Government service on March 31, 2012 and got pension and other retirement benefits. On April 19, 2015, Md.Manowar Hossain died and order for payment of family pension was issued in favour of the applicant as the wife of Md.Manowar Hossain. The Respondent No. 6 claiming to be the first wife of Md.Manowar Hossain submitted application</p>	

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	<p>before the Respondent No. 2 praying for issuance of order for half share of family pension. The Respondent No. 2 had written letter dated May 26, 2016 to the Respondent No.3 requesting him to conduct an enquiry to ascertain the claim of the Respondent No. 6 as the first wife of the deceased employee and for realisation of excess payment made to the applicant, which is under challenge in the present application.</p> <p>By producing record, the authorized representative of the Respondent No. 3 submits that the enquiry has already been conducted in connection with the claim of the Respondent No. 6 and it is found that the Respondent No. 6 is the first legally married wife of Md.Manowar Hossain. Learned Counsel representing the applicant submits that the excess payment already made in favour of the applicant may not be recovered as the said amount has already been spent by the applicant. Learned Counsel representing the Respondent No. 6 submits that she may be paid 50 % of the entire amount of arrears of family pension from the date of her entitlement till the date of release of regular family pension.</p>	

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	<p>On consideration of the above submission made on behalf of the respective parties, we are of the view that both the applicant and the Respondent No.6 are entitled to get family pension in equal half share as per provisions of Rule 104 of the West Bengal Services (Death-cum-Retirement Benefits) Rules, 1971. The Respondent No.3 being the authority to sanction family pension, is duty bound to pass an order declaring payment of family pension in favour of both the applicant and the Respondent No. 6 in equal half share from April 20, 2015. Both the applicant and the Respondent No.6 are entitled to get the entire amount of arrears of family pension which has not been disbursed due to stoppage payment of family pension by the order of Respondent No.2. However, the Respondent No. 3 will pass order for realisation of excess payment made in favour of the applicant, so that the Respondent No. 6 may get her dues from the arrears of family pension which has not been disbursed till date. We are of the view that the amount of interest should not be realised from the applicant at the time of realisation of excess payment of family pension in favour of the applicant.</p>	

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BLR	<p>In view of our above findings, the Respondent No. 3 is directed to sanction order of payment of family pension in favour of the applicant and the Respondent No. 6 in accordance with the provisions of Rule 104 of West Bengal Services (Death-cum-Retirement Benefit) Rules, 1971 and by following the observations made by us in this order within a period of twelve (12) weeks from the date of communication of the order. With the above direction, the original application is disposed of.</p> <p>Let a plain copy of the order be supplied to all parties.</p> <p style="text-align: center;"> (S.K.Das) MEMBER(A) </p> <p style="text-align: center;"> (R.K.Bag) MEMBER (J) </p>	