

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 833 of 2019.

SMT. LILABATI SAMANTA – VERSUS- THE STATE OF WEST BENGAL AND 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>4 11.2.2020.</p>	<p>For the Applicant : Mr. U.K. Bhattacharyya, Advocate.</p> <p>For the State respondent : Mr. A. Datta, Departmental representative.</p> <p>In the application, Lilabati Samanta, the applicant, wife of late Jagannath Samanta, has prayed for certain reliefs, the relevant portion of which is as under :-</p> <p>“.....ii) <i>The impugned Memo No. 1298/Jela/Bhumi/Jhargram/2018 dated 04.12.2018 may be quashed and set aside.</i></p> <p>iii) <i>The concerned respondents may be directed by this Hon'ble Tribunal to grant and pay the monthly pension with arrear computing the qualifying service of the husband of the petitioner after including the service period as casual worker from 01.01.1975 to 1984 with the service rendered by the petitioner as approved Group 'D' staff in regular Government Establishment for the period 21.04.2011 to 30.09.2016 in the interest of justice.</i></p> <p>iv) <i>The concerned respondents may be directed by this Hon'ble Tribunal to condone the deficiency in service period for computation of qualifying</i></p>	

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	<p><i>service of 10 years for payment of minimum monthly pension.</i></p> <p>v) <i>The respondent may be directed by this Hon'ble Tribunal to grant and pay the monthly pension with arrear after consideration and disposal of the representation dated 22.10.2018 submitted by the petitioner...".</i></p> <p>It appears Jagannath Samanta had worked as Tahasil Mohury from 1975 to 1984. Thereafter, pursuant to the orders of the Court, he was absorbed as Group 'D' in Government regular establishment and had worked from 21st April, 2011 to 30th September, 2016 when he superannuated. Jagannath Samanta had expired on 8th April, 2017. It appears thereafter the applicant had filed a representation dated 22nd October, 2018 before the Principal Secretary, Land & Land Reforms Department, Government of West Bengal, appearing at page 65 of the application for grant of pension. It appears that the said application was dismissed by an order contained in the memo dated 4th December, 2018 issued by the Additional District Magistrate and the District Land and Land Reforms Officer, Jhargram, the respondent no. 2(e)</p>	

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	<p>holding that as the husband of the applicant had worked for less than ten years in the Government regular establishment, she is not entitled to the reliefs as prayed for. It is submitted by Mr. Uttam Kumar Bhattacharyya, learned advocate for the applicant that as the claim of the applicant was rejected by not giving an opportunity of hearing which is in violation of principles of natural justice, the impugned memo may be set aside. Moreover, the Additional District Magistrate and District Land and Land Reforms Officer, Jhargram lacks the authority to decide the issue of grant of pension. Submission is that though in the representation dated 22nd October, 2018 it has been stated that she was praying for pension, in effect she is praying grant of family pension.</p> <p>Mr. A. Datta, the Departmental representative for all the respondents submits that the order contained in the memo dated 4th December, 2018 is just and proper as the Additional District Magistrate and District Land and Land Reforms Officer, Jhargram, the respondent no. 2(e) is the authority to sanction pension. Moreover as the husband of the applicant had served in the Government department for about five</p>	

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	<p>years, she is not entitled to pension as under the Rules a Government employee has to serve for ten years.</p> <p>Heard Mr. Bhattacharyya, learned advocate for the applicant and Mr. Datta, the Departmental representative.</p> <p>Perusing the memo dated 4th December, 2018, with regard to the contention of the applicant regarding lack of jurisdiction of the respondent no. 2(e) in deciding the issue, we are of the view that no provision of law or regulation has been shown to demonstrate that the said respondent lacks jurisdiction save and except referring to Article 166 of the Constitution of India. Since we find that the said respondent is the pension sanctioning authority, we are of the view that the said respondent was competent to pass the order under challenge. However, since we find the order contained in the memo dated 4th December, 2018 was passed without giving the applicant an opportunity of hearing which was in violation of the principles of natural justice, the order contained in the memo dated 4th December, 2018 of the application cannot be sustained and is therefore set aside and quashed. The application is allowed.</p>	

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Skg.	<p>Under the facts and circumstances, the applicant, is at liberty to file an application for grant of family pension afresh before the Additional District Magistrate and District Land and Land Reforms Officer, Jhargram in the district of Jhargram- the respondent no. 2(e), within eight weeks from the date of obtaining the certified copy of this order and if such application is filed, the said respondent shall dispose of the same by passing a reasoned order to be communicated to the parties within twelve weeks after giving an opportunity of hearing dealing with the judgements and circulars which may be relied on.</p> <p>(Subesh Kumar Das) Member (A).</p> <p>(Soumitra Pal) Chairman.</p>	