

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

**The Hon'ble Justice Soumitra Pal,
& The Hon'ble Dr. Subesh Kumar Das.**

Case No –OA-327 of 2018.**Pulami Sahu & Ors. –Vs- The State of West Bengal & 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;"><u>2</u> 26.11.2018</p>	<p>For the Applicants : Mrs. Sonali Mitra, Advocate.</p> <p>For the Respondents: None.</p> <p>For the Principal Accountant : Mr. Biswanath Mitra, General (A&E), West Bengal. (Departmental Representative).</p> <p>Since it is submitted by Mrs. Sonali Mitra, learned advocate that pursuant to the direction contained in the order dated 21st August, 2018 all the respondents have been served, she is directed to file affidavit of service in course of this day. Despite service of notice none appears on behalf of respondent nos. 1 to 6.</p> <p>In this application the applicant no. 1, the wife and the applicant nos. 2 and 3 sons and applicant no. 4 the daughter of late Nikhil Kumar Sahu, have prayed for a direction upon the respondents to release Death-cum-Retirement benefits and the outstanding payments payable to the applicants on account of the death of Dr. Sahu. Prayer is that the application for voluntary retirement dated 18th August, 2004 with effect from 28th November, 2004 be allowed for payment of the dues. It appears in 1974 the husband of the applicant had joined the government service. His service was regularised on</p>	

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	<p>14th May, 1974. He was transferred to Pathra SDH, Jhargram, Paschim Medinipur by the transfer order dated 30th April, 2002. Thereafter, the husband of the applicant no. 1 submitted a petition before the respondent authorities for voluntary retirement with effect from 30th November, 2004 due to acute family problem as well as the sickness of the mother. Since the matter was not disposed of, he preferred an application being OA-472 of 2005 before the Tribunal. The Tribunal after hearing the parties disposed of the said application by directing the authorities to dispose of the representation within three months from the date of communication of the said order by passing a reasoned order after giving an opportunity of hearing to the applicant. Since the said order was alleged not to have been complied with, a contempt application being CCP-19 of 2006 was filed by the applicant therein which was disposed of on 2nd July, 2009 by passing an order, the relevant portion of which is as under :</p> <p style="text-align: center;"><i>....." In consequence, in disposing of this application praying for initiation of a proceeding under Contempt of Court's Act, <u>we direct the Ld. Advocate representing the petitioner to take steps for approaching the</u></i></p>	

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	<p><u>administrative department for taking decision of his prayer regarding voluntary retirement and he is granted liberty to file such application within the period of fifteen days hence, where upon the aforesaid authority shall consider the same in accordance with law and communicate the result thereof.</u></p> <p><i>With this, we dispose of the Contempt application.".....(Emphasis supplied)</i></p> <p>It appears that the husband of the applicant no. 1 had expired on 9th November, 2013. Thereafter, the applicants herein moved an application being OA-93 of 2016 which was disposed of by the Tribunal by passing the following order which is as under :</p> <p><i>....."The Tribunal disposes of the Application after having heard the Learned Advocate for the Applicant and the Health Department upon passing the following direction :-</i></p> <p><i>Late Dr. Nikhil Kumar Sahu, an erstwhile Homoeopathic Medical Officer lastly posted at Manipur S.H.D., Balurghat Sadar took voluntarily retirement from his service. Thereafter he died on 09.11.2013. He has left behind the Applicants being his wife</i></p>	

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	<p><i>and children as his legal heirs.</i></p> <p><i>Presently they have approached the Tribunal for release of his death-cum-retirement benefits.</i></p> <p><i>The Director of Health Services is requested to dispose of the issue in respect of the prayer for release of death-cum-retiral benefits of late Dr. Nikhil Kumar Sahu in favour of the Applicants with utmost dispatch considering the lapse of such a long time after the death of late Dr. Sahu.</i></p> <p><i>It would be much appreciated that the D.H.S. would take necessary steps within a period of four weeks from the date of receipt of this order.</i></p> <p><i>The Application is accordingly disposed of."</i></p> <p>It is submitted by Mrs. Sonali Mitra, learned advocate for the applicants that though orders have been passed by this Tribunal, no order has been passed by the respondent authorities disposing of the claim of the applicant for payment of the superannuation benefit of late Sahu as well as the other claims which have been filed by them.</p> <p>It is submitted by Mr. B. Mitra, the Departmental</p>	

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	<p>Representative for the Principal Accountant General (A&E), West Bengal - respondent no. 7, that the office of the Principal Accountant General (A&E), West Bengal shall process the matter after necessary order is passed by the state respondents.</p> <p>Heard Mrs. Sonali Mitra, learned advocate for the applicants and Mr. Biswanath Mitra, Departmental Representative for the Principal Accountant General (A&E), West Bengal.</p> <p>It appears from the orders passed, particularly the order dated 2nd July, 2009 passed in CCP-19 of 2006 (Dr. N. K. Sahu -Vs- S. Ghosh, Pr. Secy, Health & Family Welfare Deptt. & Ors.) that day the applicant was yet to file the application for voluntary retirement and accordingly, liberty was granted to file such application. It is not clear from the application whether the husband of the applicant no. 1 had filed an application for voluntary retirement pursuant to the liberty given by order dated 2nd July, 2009.</p> <p>Having heard Mrs. Sonali Mitra, learned advocate and Mr. Biswanath Mitra, Departmental Representative and considering the facts and circumstances of the case, the Original Application is disposed of by directing the Secretary, Department of Health & Family Welfare,</p>	

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Sourav	<p>Government of West Bengal, the respondent no. 1, now re-designated as Additional Chief Secretary, Department of Health & Family Welfare, Government of West Bengal, to dispose of the matter regarding voluntary retirement and entitlement of superannuation benefits of late N. K. Sahu by passing a reasoned order to be communicated to the parties within twelve weeks from the date of presentation of a copy of this order after giving an opportunity of hearing to the applicants and after verifying the records.</p> <p>At the time of hearing applicants are at liberty to submit copies of documents in support of their contentions and the respondent no. 1 in his reasoned order shall deal with the same.</p> <p>(DR. SUBESH KUMAR DAS) MEMBER (A)</p> <p>(SOUMITRA PAL) CHAIRMAN</p>	