

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

**The Hon'ble Justice Ranjit Kumar Bag
& The Hon'ble Dr. Subesh Kumar Das**

Case No – OA 1215 OF 2015

Tapash Roy vs The 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
13 10.12.2018	<p>For the Applicant : Mr. H, Nandy, Learned Advocate.</p> <p>For the Respondents : Mrs. S. Agarwal, Learned Advocate.</p> <p>For the Pvt. Respondent No. 7 : Mr. G.P. Banerjee, Learned Advocate.</p> <p>The applicant has prayed for direction upon the respondents to grant him family pension in place of private respondent no. 7 and for consideration of the objection raised by the applicant in connection with family pension enjoyed by the private respondent.</p> <p>The applicant claims to be the son of one Basanta Kumar Roy from his first wife since deceased. The contention of the applicant is that his father Basanta Kumar Roy did not marry the private respondent and thereby the private respondent is not the legally married wife of Basanta Kumar Roy. The further contention of the applicant is that one Ranjana Roy born from the alleged wedlock between the private respondent and Basanta Kumar Roy is not the legal heir of Basanta Kumar Roy since deceased. It appears from the materials on record that Basanta Kumar Roy, Constable of Police retired from service in the year 1994. Learned Counsel for the applicant submits that Basanta Kumar Roy died on February 3, 2015. He further</p>	

ORDER SHEET

Tapash Roy

Form No.

.....

Vs.

The State of West Bengal & Ors.

Case No. **OA 1215 OF 2015**

.....

submits that the first wife of Basanta Kumar Roy namely Radha Rani Roy died on July 18, 2014.

It appears from the reply submitted by the respondent no. 4 that the deceased constable Basanta Kumar Roy nominated the private respondent as nominee for receiving the death gratuity on January 9, 1960. The reply further indicates that the private respondent submitted the certificate of marriage between Basanta Kumar Roy and herself before the respondent no. 4 on January 9, 1985, though the District Magistrate of Coochbehar has issued legal heirship certificate of Basanta Kumar Roy in favour of the present applicant on December 5, 2017. Admittedly, the present applicant has instituted Title Suit no. 30 of 2015 before the Court of Learned Civil Judge (Junior Division), Mekhliganj praying for declaration that the private respondent is not the legally married wife of Basanta Kumar Roy and that the said private respondent and her daughter Ranjana Roy are not the legal heirs of deceased Basanta Kumar Roy. The said Title Suit is still pending for adjudication before the Learned Civil Judge (Junior Division), Mekhliganj.

With the above factual matrix, Learned Counsel for the applicant submits in response to our query that the applicant was aged about 42 years at the time of death of his father. The adult son of a deceased Government employee is not entitled to get family pension in terms of Rule 7(2) of the West Bengal

ORDER SHEET

Tapash Roy

Form No.

.....

Vs.

The State of West Bengal & Ors.

.....

Case No. **OA 1215 OF 2015**

Services (Death-cum-Retirement Benefit) Rules, 1971. Since the family pension has already been disbursed in favour of the private respondent on the recommendation of the respondent no. 4 on the basis of marriage certificate produced by the private respondent and since the Title Suit filed by the present applicant for declaration that the private respondent is not the legally married wife of the deceased Basanta Kumar Roy, is pending for adjudication before the competent Court of Law, we are of the view that the applicant is not entitled to get any relief in the present application.

Accordingly, the present application is dismissed.

Let a plain copy of the order be supplied to both parties.

(S.K. DAS)
MEMBER(A)

(R. K. BAG)
MEMBER (J)

Rajib

ORDER SHEET

Tapash Roy

Form No.

.....

Vs.

The State of West Bengal & Ors.

.....

Case No. **OA 1215 OF 2015**

--	--	--

ORDER SHEET

Tapash Roy

Form No.

.....

Vs.

The State of West Bengal & Ors.

.....

Case No. **OA 1215 OF 2015**