

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

The Hon'ble Justice Soumitra Pal (Chairman)
& The Hon'ble Mr. Subesh Kumar Das (Administrative Member)

Case No –OA 178 OF 2018

Smt. Krishnamaya Thapa 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
<p>2</p> <hr/> <p>19.11.2018</p>	<p>For the Applicant : Mr. Sukanta Das Miss Lopamudra Moitra Advocate</p> <p>For the Respondents: Mr. G.P. Banerjee Mrs. S. Mitra Advocate</p> <p>Though the matter has appeared in the list under the heading “To Be Mentioned”, by consent of Mr. Sukanta Das, learned advocate, appearing along with Miss Lopamudra Moitra, learned advocate for the applicant and Mr. G.P. Banerjee, learned advocate appearing along with Mrs. S. Mitra, learned advocate for the respondents, the matter is taken up for “Hearing”.</p> <p>In this application, the applicant has prayed for the following reliefs :</p> <p>“(i) to direct the respondent authorities to disburse and pay the 1/3rd share of the death benefits of deceased employee Bishnu @ Bisu Kumar Thapa in favour of the applicant immediately.</p> <p>(ii) Such other order or orders, direction or directions as to Your Lordships</p>	

ORDER SHEET

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;">may seem fit and proper.”</p> <p>It appears the applicant is the mother of the deceased employee who was a Constable in the Police Department. As evident from the application, Vishnu Kumar Thapa@ Bisu Kumar Thapa expired on 21st May, 2006 leaving behind his wife Shrimati Nina Thapa, son Aniruddhu Thapa and mother, that is the applicant herein as heirs and legal representatives. The applicant filed a civil suit and other Suit No. 211 of 2006 before the Civil Judge (Junior Division), 2nd Court, Paschim Medinipur against the respondents which included the wife and son of the deceased employee and the prayer portion is as under :</p> <p style="text-align: center;">“(a) That a decree may be passed declaring plaintiffs 1/3rd share in the death benefits (settlement dues) as described in the (A) schedule on account of death of her son Bishu Kumar Thapa.</p> <p style="text-align: center;">(b) That the defendant No. 2 & 3 may be restrained from collecting the plaintiff’s 1/3rd share or to releasing 1/3rd share to the defendant No. 2 in respect of (A) schedule death benefits (settlement dues).</p> <p style="text-align: center;">(c) That any other relief for which the plaintiff is entitled for may be passed.”</p>	

ORDER SHEET

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>After contested hearing, on July, 31, 2013 the Learned Civil Judge (Junior Division), 2nd Court, Paschim Medinipore dismissed the said suit. Being aggrieved the applicant filed other Appeal No. 96 of 2013 before the Learned District Judge, Paschim Medinipore. After hearing the parties the learned Additional District Judge-cum-Special Judge (under E.C. Act), Paschim Medinipur allowed the appeal on 21st July, 2015 by passing the following order :</p> <p style="text-align: center;">“.....It is declared that the plaintiff has 1/3rd share in the death benefits (settlement dues) as described in the ‘A’ schedule of the plaint of the deceased Bishnu Kumar Thapa and the respondent no.3 and 4 are restrained from releasing that 1/3rd share to anybody else excepting the appellant / plaintiff</p> <p>The applicant had also filed an application for a certificate under part X of the Indian Succession Act 1925 in respect of the debts and securities of the deceased Bishnu @ Bisu Kumar Thapa before the District Delegate, Paschim Medinipur and the same was registered as Succession Certificate Case No. 94 / 2013. By an order dated 3rd March, 2014, the learned District Delegate, Paschim Medinipur was pleased to allow the said Succession Certificate case by passing the following</p>	

ORDER SHEET

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>order: -</p> <p style="text-align: center;">“That the Succession Certificate in respect of the debts Securities of the deceased Bishnu @ Bisu Kumar Thapa is hereby granted in favour of petitioner Krishnamaya Thapa subject to filling requisite Court fees.”</p> <p>According to the applicant though thereafter several requests were made to the respondent authorities to release the death benefits in favour of the applicant as per the orders of the competent court, the respondent no.2 by a letter dated 2nd December, 2016 informed the learned advocate of the applicant that the matter is under process and payment would be made as soon as possible. According to the applicant, in spite of the order passed by the Appellate Court as well as the Learned District Delegate, no payment has been made in her favour.</p> <p>It has been stated in the application that the respondents by letter dated 23rd October, 2017 had pointed out that since there is a discrepancy in the order passed by the Additional District Judge (Special Judge), Paschim Medinipur with regard to the name of the deceased employee, the money could not be disbursed. It is submitted by Miss Lopamudra Moitra, learned advocate</p>	

ORDER SHEET

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
SCN.	<p>for the applicant that owing to the non-disbursement of the benefits the applicant is in distress.</p> <p>Mr. G.P. Banerjee, learned advocate on behalf of the respondents submits that if the order as evident from the memo dated 23rd October, 2017, appearing at page 39 of the application, is rectified, as all formalities have already been complied with, the money shall be disbursed at the earliest.</p> <p>In view of the submission made by Mr. Banerjee this application is disposed of by granting liberty to the applicant to file appropriate application for rectification of the name of the deceased, if so advised and if consequently necessary orders are passed by the Court, the respondent nos. 1 and 2 shall accordingly disburse the amount within four weeks on compliance of formalities, if any.</p> <p>(S.K. Das) MEMBER (A)</p> <p>(Soumitra Pal) CHAIRMAN</p>	