

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

The Hon'ble Justice Soumitra Pal, Hon'ble Chairman
& The Hon'ble Dr. Subesh Kumar Das, Administrative Member.

Case No –OA-329 of 2019.

Miss Uma Basfore. –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>7</u> 19.11.2019.</p>	<p>For the Applicant : Mr. T. P. Das, Advocate.</p> <p>For the Respondent : Mr. A. K. Das Sinha, Nos. 2(c) to 2(i) Advocate.</p> <p>For the Respondent Nos. 2(a) and 2(b) : None.</p> <p>For the Principal Accountant : Mr. B. Mitra, General (A&E), West Bengal. Departmental Representative.</p> <p>In this application, Uma Basfore stated to be the heir of Mohindar Basfore, an ex-employee in the office of the Assistant Chief Medical Officer of Health & Controlling Officer, College of Medicine & J. N. M. Hospital, Kalyani, Nadia – the respondent no.-2 (d), has prayed for the certain reliefs, the relevant portion of which is as under :</p> <p style="text-align: center;"><i>“.....(a) An order do issue direction upon the respondents and/or their agents to set-aside, quash and/or cancel the impugned order dated 13/02/2019 passed by the concerned Treasury Officer, Kalyani Nadia, arising out of the order dated 27.12.2016 passed under Memo No.</i></p>	

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	<p><i>249/TA/Kly dated 27.12.2016 of the concerned Additional Treasury Officer, Kalyani and thereby to allow the applicant's prayer for re-payment of family pension to the applicant as produced the necessary papers and documents as relied above at an early date;</i></p> <p><i>(b) An order do issue direction upon the respondents and/or their agents to consider the representation of the applicant dated 12.09.2018 being Annexure "K" to this petition in view of the above reference case as referred above of the Judgment and Order of the Hon'ble Court at an early date and till such consideration the above claims of such applications of the applicant no penal action can be taken against the applicant till such</i></p>	

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	<p style="text-align: center;"><i>disposal of this application;</i>"</p> <p>It has been stated that Mohindar Basfore expired on 8th November, 2009, leaving behind his wife Nira Basfore, two sons namely Binod Basfore and Dhiraj Basfore, one married daughter Hema Basfore and Uma Basfore, the applicant herein, as legal heirs and successors. It appears that the Collector, Nadia had issued a certificate to that effect on 20th October, 2010 as evident from page-24 of the application. It further appears that the applicant had applied for family pension as minor daughter, which was granted. As, after enquiry, it was found, that she was not a minor daughter of the deceased employee, the Treasury Officer, Kalyani, Nadia - the respondent no. 2 (h) by memo dated 13th February, 2019, being Annexure-"L" to the application, requested the A.C.M.O.H Kalyani & Controlling Officer, College of Medicine & J. N. M. Hospital, Kalyani, Nadia - the respondent no.-2 (d) to request the applicant to pay a sum of Rs. 1,10,802/- since overpaid.</p> <p>We find the Assistant Secretary to the Government of West Bengal by memo dated 9th July,</p>	

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	<p>2018 to the A.C.M.O.H Kalyani & Controlling Officer, College of Medicine & J. N. M. Hospital, P.O. Kalyani, Nadia, had made the following request : -</p> <p style="text-align: center;"><i>“..... 1. It appears from the papers submitted to this office, regarding family pension of Miss Uma Basfore that Miss Uma Basfore may not be considered as eligible candidate for either minor family pensioner (upto 25 years of age) or unmarried family pensioner (beyond 25 years of age) in terms of WBS (DCRB) Rules’71, on the ground of law as the said marriage between Mahinder Basfore (husband since deceased) & Nina Basfore stood dissolved in terms of order of Hon’ble Additional District Judge, Nadia, Dated, 11.08.88, in connection with MAT Suit No. 14/1988. The minor family pensioner (i.e.</i></p>	

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	<p><i>Miss Uma Basfore) took birth on 12.11.90, long after the dissolution of the marriage between their parents.</i></p> <p><i>2. You are therefore requested to take immediate necessary action to recover the amount which has already been sanctioned & paid towards Miss Uma Basfore, as a minor family pensioner."</i></p> <p>We find that in the Voter Identity Card issued to the applicant as well as the Aadhar Card annexed to the application, the date of birth of the applicant has been recorded as 12th November, 1990.</p> <p>Mr. T. P. Das, learned advocate for the applicant submits that since Nira Basfore the mother of the applicant, by an affidavit sworn on 30th August, 2018 appearing at page-49 to 51 of the application, has stated "That due to inadvertence and/or mistake and/or wrong information of my daughter's birth day was recorded on 12.11.1990 instead of 28th September, 1988, such mistake or wrong information may be rectified or corrected so that other record may also be</p>	

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	<p>rectify or correct", the memo dated 13th February, 2019 may be set aside.</p> <p>Mr. A. K. Das Sinha, learned advocate for the respondent nos. 2(c) to 2(i) submits that since it is evident from the annexures annexed to the application that all along it has been recorded that the date of birth of the applicant was 12th November, 1990, no order may be passed.</p> <p>Heard learned advocates for the parties.</p> <p>We have gone through the affidavit sworn by Nira Basfore, wife of late Mohindar Basfore, stated to be the mother of the applicant wherein it has been stated that the date of birth of the present applicant was wrongly recorded as 12th November, 1990 instead of 28th September, 1988.</p> <p>Since we find that there are overwhelming evidences - from the Voter Identity Card and Aadhar Card that the date of birth of the applicant is 12th November, 1990, we are unable to rely on the affidavit sworn by the mother of the applicant.</p> <p>Moreover, as the marriage between Mohindar Basfore, since deceased and Nira Basfore was dissolved in terms of the order of the learned</p>	

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Sourav	<p>Additional District Judge, Nadia dated 11th August, 1988 passed in MAT Suit No. 14/1988, the submission of the applicant that she was born on 12th November, 1990, cannot be accepted. That apart we find from verification of the application that the applicant was aged 28 years on 16th April, 2019. Therefore, no order can be passed on the application. The application is dismissed.</p> <p>(DR. SUBESH KUMAR DAS) MEMBER (A)</p> <p>(SOUMITRA PAL) CHAIRMAN</p>	