

**IN THE WEST BENGAL ADMINISTRATIVE
TRIBUNAL
BIKASH BHAVAN, SALT LAKE CITY
K O L K A T A – 7 0 0 0 9 1**

Present :-

**The Hon'ble Smt. Urmita Datta (Sen)
Member (J)**

-AND-

**The Hon'ble Dr. A. K. Chanda
Member (A)**

J U D G M E N T

-of-

Case No. O.A. - 573 of 2016

Syeda Setara BegumApplicant

-Versus-

State of West Bengal & others....Respondents

**For the Applicant : - Ms. Bulbul Sarbajna,
Advocate.**

For the State Respondents:- None.

Judgment delivered on : 28th June, 2018

**The Judgment of the Tribunal was delivered by :-
The Hon'ble Smt. Urmita Datta (Sen), Member (J)**

Judgement

1. The instant application has been filed praying for following relief(s):

“In view of the aforesaid facts and circumstances of the case your petitioner most humbly prays that Their Lordship would graciously be pleased to

- a) Direct the concerned respondent authority to release the revised arrear pay of your petitioner w.e.f. 08.09.1992 to 31.01.2002 after the death of the husband of your petitioner.
- b) To direct the concerned respondent to release the arrear payment of your petitioner as per Memo of the govt. of West Bengal.
- c) To direct the concerned respondent authorities to certify and produce all relevant record of the case so that the conscionable justice may be done.
- d) To pass such further order or orders as Your Lordship may deem fit and proper.

That the applicant declares that she is entitled to get the relief on the following amongst other.”

2. According to the applicant, her husband was appointed as correspondence clerk on 12.01.1967. Thereafter, her husband retired on 31.01.2002 and P.P.O. was issued in favour of him. Subsequently, the husband of the applicant died on 14.08.2003. As per the applicant, her husband was promoted under 1:1 policy against one Susil Das as would be evident from the list dated

17.09.2002 (Annexure A) whereby his name was reflected against serial No. 62 as per the office Memo. dated 17.09.2002. After the death of her husband, she filed representation before the authority on 10.05.2007 and has prayed for arrear of pay for his promoted post w.e.f. 08.09.1992, arrear of revised pension w.e.f. 01.02.2002, arrear of leave salary and gratuity. In support of her claim, she has enclosed certain documents and has asked for the arrear of payment.

3. None appears for the Respondents.
4. Heard the Counsel for the applicant and perused the records. From the perusal of the record at the admission hearing stage, it is noted that the applicant has basically asked for arrear of salary of her deceased husband from 08.09.1992. Though the said deceased employee has claimed to work till 31.01.2002 i.e. up to the date of his retirement and also was alive one year thereafter i.e. up to 14.08.2003 but there is no piece of papers or any averment to the effect that the deceased employee ever claimed for arrear of his pay during his service time or even after his retirement rather he had merrily retired from the service without claiming anything during his lifetime. Further there is no whisper made by the applicant in her application that the deceased employee had ever filed any representation before the authority in this regard. It is further noted that no P.P.O. has been enclosed along with the application to establish whether during the lifetime of the deceased employee, he had got the arrear pay if he was at all promoted to the post of U.D.C. in the year 1992. Rather from the perusal one document dated 22.08.2007 (Annexure C), it is noted that one Block Development Officer, Keshpur, Paschim Medinipur wrote the above mentioned letter to the District Magistrate (Dev.), Paschim Medinipur as follows:

“Sir,

It is seen in the 2nd Para of Promotion Order (Ref. Your memo no. 345(20)/Dev. Dt. 09.06.04 that “*the promotion to the post of UDA is purely provisional and subject to change as and when necessary.*”

In this connection, confirmation is solicited regarding promotion of Late Mosarraf Hossain, Ex C.C. of Keshpur Block for the following points:-

- 1) Whether the financial benefit on provisional promotion can be given to the incumbent's nominee concerned, as the incumbent died after retirement on 14.08.2003 and
- 2) For which period the financial benefit will be provided to the incumbent concern?”

From the perusal of the above, it is noted that the promotion to the post of UDA is purely provisional and subject to change as and when necessary. Therefore in the absence of any order of confirmation of the promotion, the entitlement to the promotion post even after any provisional promotion was granted or not cannot be claimed at a distant period of time. It is further noted that the last communication was made in the year 2007 and the applicant has enclosed one representation dated 16.12.2014, however, the instant application has been filed in the year 2016 only. As the arrear of pay is not continuous cause of action and therefore the instant application is barred by limitation for which neither any explanation has been given nor any application for condonation of delay has been filed. We observe that neither sufficient document to establish the prima facie case has been found nor the delay has been explained properly. Moreover, whether the deceased employee was actually confirmed in the

promotion post or not, has not been satisfied nor the deceased employee himself ever agitated the said issue during his lifetime.

5. In view of the above, we are unable to entertain the application after a long gap of 15 years from the date of death of deceased employee. Accordingly, the O.A. is dismissed with the above observations with no order as to costs.

DR. A.K. CHANDA
MEMBER (A)

URMITA DATTA (SEN)
MEMBER (J)