

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-606 of 2016.**

Kalachand Ghatak and Another. -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>14 <u>03.09.2019.</u></p>	<p>For the Applicants : Mr. A. K. Banerjee, Mr. M. Ahmed, Advocates.</p> <p>For the State Respondents : Mrs. S. Agarwal, Advocate.</p> <p>In this application, the applicants, - Kala Chand Ghatak and Aruna Mukherjee, son and daughter respectively of late Sachipati Ghatak, stated to be ambulance driver of Katwa Sub-Divisional Hospital, who died in harness on 28th December, 1981, - has prayed for the certain reliefs, the relevant portion of which is as under :</p> <p style="padding-left: 40px;"><i>"...a) An order directing the respondent authorities and each one of them to release/disburse the pensionary/retiral benefit available to the legal heirs of the ex-employee as stated above forthwith;</i></p> <p style="padding-left: 40px;"><i>b) An order directing the respondent authorities and each one of them to pay admissible interest on the accumulated amount so accrued to the legal heirs of prayed above including exemplary cost for</i></p>	

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	<p><i>causing delay;</i></p> <p><i>c) An order directing the respondent authorities and each one of them to disburse the family pension available to wife of the deceased including 18% interest already accrued on that account;</i> ”</p> <p>The matter was taken up from time to time. On 16th April, 2019, the matter came up for hearing when an order was passed, the relevant portion of which is as under :</p> <p><i>“Since certain essential facts require examination for deciding the matter regarding grant of pensionary and death-cum-retirement benefits, the applicant is directed to file supplementary application, - enclosing the appointment letter of Sachipati Ghatak, the place where he was last working and the GPF subscription account number along with copies of documents in support thereof, - for proper adjudication of the matter. As prayed for by Mr. M.</i></p>	

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	<p><i>Ahmed, learned advocate for the applicant, let supplementary application be filed by 14th May, 2019 and a copy of the same be furnished to Mrs. S. Agarwal, learned advocate for the respondents, to enable her to take instructions. Let the matter appear on 20th May, 2019 under the heading "For Orders"....."</i></p> <p>Thereafter, on 25th June, 2019, the matter came up for hearing when an order was passed, the relevant portion of which is as under :</p> <p><i>"At the very outset, it is submitted by Mr. Banerjee that though by order dated 16th April, 2019 directions were issued to file supplementary affidavit enclosing the appointment letter of Sachipati Ghatak, to state the place where he was last working and the GPF subscription account number along with copies of documents in support thereof for proper adjudication of the</i></p>	

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	<p><i>matter, since Sachipati Ghatak had expired in 1981 and thereafter, his wife also expired, for the said reason it is not possible to file supplementary affidavit. However, as it is evident from annexure "C" that there are documents which properly looked into may help in adjudicating the matter, appropriate order be passed.</i></p> <p><i>Since inspite of the order dated 25th February, 2019 passed by the High Court in W.P.S.T. No. 5 of 2019 Kalachand Ghatak and Anr -versus- The State of West Bengal and Ors, no reply has been filed by the State authorities, the Chief Medical Officer of Health, Burdwan - respondent no. 3 is directed to file reply by 2nd August, 2019. Rejoinder, if any by 9th August, 2019. Matter to appear under the heading "For Orders" on 19th</i></p>	

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	<p style="text-align: center;"><i>August, 2019....."</i></p> <p>Thereafter, reply and rejoinder have been filed.</p> <p>Mr. A. K. Banerjee, learned advocate appearing on behalf of the applicants submits that though many documents could not be found, however, as it is evident from annexure-'B' and annexure-'C' of the application that death certificate is with the respondent authorities, appropriate order may be passed. Referring to the reply filed by the State respondents, particularly paragraph 15 thereof, it is submitted that since the service book of the deceased is not available and no new service book has been directed to be reconstructed due to lack of instructions from higher authority and as it is evident that, if directed, service book can be reconstructed, appropriate order may be passed so that the reliefs sought for may be granted.</p> <p>Mrs. S. Agarwal, learned advocate appearing on behalf of the State respondents, relying on the reply submits that the death of Sachipati Ghatak took place on 28th December, 1981. As he was on deputation and worked in Katwa S. D. Hospital, Burdwan up to 18th May, 1965, when last salary was drawn, no order may</p>	

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	<p>be passed as relevant documents are not available. In this regard she has referred to annexure 'A' to the application from which it transpires that the deceased was paid salary up to 18th May, 1965 when he was on deputation at Asansol L. M. Hospital. Submission is no other records are available in the office of the Katwa S. D. Hospital, Burdwan.</p> <p style="text-align: center;">Heard learned advocates for the parties.</p> <p>It appears from annexures that the Sachipati Ghatak worked in Katwa S. D. Hospital, Burdwan up to 18th May, 1965 and was paid salary up to 18th May, 1965 when he was on deputation at Asansol L. M. Hospital. Thereafter, no records are available. He expired on 28th December, 1981. Since there is dearth of records and as it appears from the reply that service book could not be reconstructed due to non-availability of instructions from higher authority, considering the said fact, this application is disposed of by directing the Chief Medical Officer of Health, Burdwan, now Purba Burdwan - the respondent no. 3 to first decide by coming to a finding and by passing an order regarding the identity of the applicants and length of service of the deceased government</p>	

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Sourav	<p>employee Sachipati Ghatak after verifying the records within eight weeks from the date of presentation of a copy of this order. If he is satisfied about the identity of the applicants and confirms the length of service of deceased government employee, he shall immediately seek for necessary orders for reconstruction of the service book and the Additional Chief Secretary, Department of Health Services, West Bengal, - the respondent no. 1, shall issue necessary orders for reconstruction of the service book within eight weeks and the service book will be reconstructed within the said period. After the service book is reconstructed, the matter regarding grant of pensionary and/or retiral benefits will be considered by the respondent no. 3 and a reasoned order shall be passed within ten weeks after giving an opportunity of hearing to the parties and after verifying the records.</p> <p>(DR. SUBESH KUMAR DAS) MEMBER (A)</p> <p>(SOUMITRA PAL) CHAIRMAN</p>	