

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

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

Case No – OA 760 of 2014

Shibnath Mahato 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
22 11.04.2019	<p>For the Applicant : Mr. S. Bhattacharjee, Mr. I. Dutta, Mrs. K. Das, Learned Advocates.</p> <p>For the Respondent : Mr. S.K. Mondal, Learned Advocate.</p> <p>For Private Respondent Nos. 5 to 9 : Mr. G.N. Prasad, Learned Advocate.</p> <p>The applicant has prayed for direction upon the respondents for payment of the entire retirement benefit in connection with service of his deceased father.</p> <p>It appears from the materials on record that one Narayan Chandra Mahato was a Forest Watchman (Banamajdur) in the establishment of the respondent No. 2, District Forest Officer, Birbhum. Narayan Chandra Mahato died on August 2, 2011 leaving behind his legal heirs. He contracted first marriage with the respondent No. 5 Padma Mahato and second marriage with one Sabita Mahato. The dates of marriage are not disclosed either by the applicant or by the respondents in their respective pleadings. The applicant claiming to be the son of second wife</p>	

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of Narayan Chandra Mahato has prayed for disbursement of retirement benefits of his deceased father in his favour. The reply submitted by the private respondents indicates that the respondent No. 5 who happens to be the first wife of deceased employee was the nominee for payment of death gratuity, amount of general provident fund, pension and the amount of group insurance. The reply of the private respondents also goes to establish that the private respondent No. 5 and the sons and daughters of the deceased Narayan Chandra Mahato filed Misc. Case No. 40 of 2015 before the Court of District Delegate, Birbhum for grant of succession certificate, so that the private respondents can receive the entire retirement benefit of the deceased Narayan Chandra Mahato from the respondent No. 2. On July 23, 2015, the District Delegate of Birbhum issued succession certificate in Misc. Case No. 40 of 2015 in favour of the private respondents including the respondent No. 5 for receiving the entire retirement benefit and pension from the respondent No. 2, District Forest Officer, Birbhum.

The admitted position is that the family pension and other retirement benefits have already been disbursed in favour of the respondent No. 5, who was not only the first wife of the deceased employee, but also nominee for receiving retirement benefits from the office of the deceased employee. The contention made on behalf of the applicant that the applicant being one of the legal heirs of the deceased employee is entitled

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to get share of retirement benefits of his deceased father cannot be accepted, as the applicant is entitled to get the said amount of money from the office of the respondent No. 2, when the nominee will pre-decease the concerned Government employee. Moreover, this Tribunal is duty bound to act upon the succession certificate issued by the competent Court of Law, unless and until the same is set aside by following the procedure of law. So, the claim of the applicant for receiving the share of retirement benefits of his deceased father directly from the office of the respondent No. 2 cannot be entertained, particularly when the retirement benefits including family pension have already been given to the respondent No. 5, being the nominee and the first wife of the deceased employee.

In view of our above observation, we are constrained to hold that the applicant is not entitled to get any relief in the present application. The original application is, thus, dismissed.

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

(S.K. DAS)
MEMBER(A)

(R. K. BAG)
MEMBER (J)

Rajib

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