

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

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

Case No –OA 982 OF 2016

Bikash Garai 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>12 20.11.2019</p>	<p>For the Applicant : Mr. A. Banerjee, Mr. S. Banerjee, Mr. G. Halder, Learned Advocates.</p> <p>For the Respondents : Mr. A.L. Basu, Learned Advocate.</p> <p>The applicant has prayed for direction upon the respondents for release of the amount of General Provident Fund, Death Gratuity, Group Insurance and Leave Encashment of his deceased sister Minati Garai in his favour.</p> <p>One Minati Garai was working as Peon in the office of the respondent No. 5, Block Development Officer, Nanoor Development Block in the district of Birbhum. She died in harness on December 26, 2014 after completion of almost nineteen years of service. Minati Garai was unmarried. She died leaving behind four brothers and four sisters viz. (i) Adhir Garai, (ii) Nidhir Garai, (iii) Trishna Garai, (iv) Sudhir Garai, (v) Bikash Garai, (vi) Renuka Mondal, (vii) Ketoki Garai and (viii) Krishna Sahu as her legal heirs. The contention of the applicant is that Minati Garai nominated her brother, the applicant Bikash Garai for the purpose of receiving the death gratuity and the retirement benefits as reflected in the copy of the service book annexed to the original application. The further contention of the applicant is that the respondent No. 5 is not justified in insisting on production of legal heirship certificate for the purpose of release of retirement benefits of the deceased</p>	

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	<p>Minati Garai. The grievance of the applicant is that all the retirement benefits of the deceased Minati Garai have not been released in favour of the applicant in spite of his nomination by his sister Minati Garai.</p> <p>The reply submitted by the State respondents indicates that the applicant Bikash Garai got his name incorporated in the service book of Minati Garai by interpolation and over writing, which was not authenticated by the custodian of the service book viz. the respondent No. 5. The reply further points out that an enquiry was conducted by the respondent No. 5 to ascertain the legal heirs of the deceased Minati Garai for the purpose of disbursement of her retirement benefits, but the present applicant Bikash Garai and three other sisters of Minati Garai not only refused to submit their documents before the respondent No. 5, but also misbehaved with the respondent No. 5 and thereby the respondent No. 5 took the decision to stop processing retirement benefits of Minati Garai.</p> <p>Having heard Learned Counsel representing both parties and on consideration of the materials on record, we find justification in the allegation made by the respondent No. 5 against the applicant Bikash Garai, as the applicant Bikash Garai did not implead all legal heirs of the deceased Minati Garai as respondents in the original application. Since the name of the applicant Bikash Garai was incorporated in the service book against column no. 9, 10, 11 of page no. 3 without signature of the deceased employee in column no. 12 and the signature of the respondent No. 5 in column no. 13, we are of the view that the applicant Bikash Garai got his name</p>	

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	<p>incorporated in the service book in unauthorised manner in order to grab the entire retirement benefits of his deceased sister Minati Garai by depriving other legal heirs. We do not accept the contention made on behalf of the applicant that the applicant Bikash Garai was nominated by the deceased employee Minati Garai for the purpose of receiving her retirement benefits.</p> <p>However, all the retirement benefits of Minati Garai should be disbursed in favour of all her legal heirs in equal share in the absence of any nomination made by her in terms of the provisions of Rule 100 of West Bengal Services (Death-cum-Retirement Benefit) Rules, 1971 (in short, the DCRB Rules of 1971). It is relevant to point out that the members of family of the deceased employee Minati Garai enumerated in Rule 7(1)(e)(1) of the DCRB Rules of 1971 are not in existence as all the brothers of the deceased Minati Garai are adult and all the sisters of the deceased Minati Garai are married. Minati Garai died in the year 2014 and the retirement benefits have not been disbursed in favour of her legal heirs even after lapse of almost five years and as such we are of the view that the respondent No. 5 should no more insist on production of legal heirship certificate for the purpose of disbursement of retirement benefits of the deceased Minati Garai. On consideration of pleadings of both parties and the documents produced by both parties, we are of the view that all four brothers and sisters of the deceased Minati Garai are eligible to get retirement benefits of deceased Minati Garai in equal 1/8th share.</p> <p>In view of our above findings, we direct the respondent No. 5,</p>	

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Rajib	<p>Block Development Officer, Nanoor Development Block, District-Birbhum to take necessary steps for disbursement of the amount of General Provident Fund, Death Gratuity, Group Insurance and Leave Encashment (if the leave was available in the credit of the deceased employee at the time of her death) in favour of all eight legal heirs of the deceased Minati Garai viz. (i) Adhir Garai, (ii) Nidhir Garai, (iii) Trishna Garai, (iv) Sudhir Garai, (v) Bikash Garai, (vi) Renuka Mondal, (vii) Ketoki Garai and (viii) Krishna Sahu in equal 1/8th share within a period of twelve weeks from the date of communication of the order, provided all the said legal heirs submit their necessary documents before the respondent No. 5 within a period of four weeks from the date of this order.</p> <p>With the above direction, the original application is disposed of. Let a plain copy of the order be supplied to both parties.</p> <p style="text-align: center;">S. K. DAS MEMBER(A)</p> <p style="text-align: center;">R. K. BAG MEMBER(J)</p>	

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