

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

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

Case No – **OA 804 OF 2015**

Tapan Datta 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
11 <hr/> 13.04.2018	<p>For the Applicant : Mr. C. Dutta, Learned Advocate.</p> <p>For the Respondents : None.</p> <p>For the AG (A&E),WB : Mr. B. Mitra, Departmental Representative.</p> <p style="text-align: center;">The applicant has prayed for direction upon the respondents to release retirement benefits of her sister since deceased.</p> <p style="text-align: center;">It appears from the materials on record that one Swapna Datta was a Nurse under the respondent no. 5, Block Medical Officer of Health, Kelejora Block Primary Health Centre in the district of Burdwan. Swapna Datta retired from service on December 31, 2009 and she died on September 14, 2011. The Pension Payment Order was issued in favour of Swapna Datta by the respondent AG, West Bengal on September 8, 2011 and as such the deceased employee was not in a position to collect the retirement benefits like pension, retiring gratuity and commuted value of pension. It appears from the letter dated September 8, 2011 issued to the respondent no. 5 by Senior Accounts Officer of AG, West Bengal that Swapna Datta was entitled to pension @ Rs.5433/- per month w.e.f. 01.01.2010, retiring gratuity of Rs.3,64,551/- and commuted value of pension to the tune of Rs.3,56,144/-.</p>	

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Tapan Datta

Form No.

Vs.

The State of West Bengal & Ors.

Case No. OA 804 OF 2015

The question for consideration of the Tribunal is whether the applicant being the nominee is entitled to get entire retirement benefits of the deceased Swapna Datta or legal heirs of deceased Swapna Datta are entitled to get the said retirement benefits.

The Legal Heirship Certificate issued by the Additional District Magistrate, Asansol on October 16, 2012 indicates that Swapna Datta died leaving behind her unmarried elder sister Lipika Datta and her brother Tapan Datta (the present applicant) as legal heirs. No valid document is forthcoming before the Tribunal in connection with alleged nomination of the deceased Swapna Datta in favour of the present applicant to receive entire retirement benefits. Accordingly, we are of the view that the retirement benefits of arrears of pension, retiring gratuity and commuted value of pension should be divided among two legal heirs of Swapna Datta in equal $\frac{1}{2}$ (half) share. It is relevant to point out that the legal heirs are entitled to get the amount of arrears of pension from the date to which the deceased employee was entitled to pension till the date of her death. However, the present legal heirs are not entitled to get family pension as per provision of Rule 1 (e) (2) of West Bengal Services (Death-cum-Retirement Benefit) Rules, 1971. It is also relevant to point out that the respondent no. 5 is duty bound to take all necessary steps for releasing the above retirement benefits of Swapna Datta in favour of her

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legal heirs within specified period of time. The said respondent no. 5 may obtain the order of revalidation from Accountant General, West Bengal, if required, as per provision of Rule 169 of West Bengal Services (Death-cum-Retirement Benefits) Rules, 1971.

In view of our above findings, we direct the respondent no. 5, Block Medical Officer of Health, Kelejora Block Primary Health Centre, Burdwan to release the amount of retirement benefits including arrears of pension in favour of legal heirs of Swapna Datta within a period of **12 (twelve) weeks** from the date of communication of the order.

With the above direction, the original application is **disposed of**.

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

(S.K. DAS)
MEMBER(A)

(R. K. BAG)
MEMBER (J)

Sanjib