

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

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

Case No – OA 1107 OF 2017

**JHUMUR DUTTA 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>2</p> <hr/> <p>02.04.2018</p>	<p>For the Applicant : Mr. S. Dasgupta Mr. R. Chowdhury Learned Advocate</p> <p>For the State Respondent: Mr. S. Ghosh Learned Advocate</p> <p>The applicant has prayed for direction upon the respondents to release family pension in favour of the applicant by filing original application under Section 19 of the Administrative Tribunals Act, 1985.</p> <p>The applicant claims to be dependant of her sister who died in harness as government employee on June 29, 2011. The contention of the applicant is that the applicant is unmarried sister of the deceased employee and she was fully dependant on the deceased employee and as such, she is entitled to get family pension.</p> <p>Relying on decision of the Hon'ble Supreme Court of India in "P.S.E.B. &amp; Ors. v. Ram Rakhi" reported in AIR 2000 SC 2509 : (2000) 6 SCC 560, Learned Counsel for the applicant submits that the present applicant is entitled to get family pension as unmarried sister of the</p>	

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	<p>deceased employee. On perusal of the judgement in “P.S.E.B. &amp; Ors. v. Ram Rakhi” (supra) we find that the deceased employee in the said case is governed by the Rules applicable to the employees of the State of Punjab. The deceased employee of Punjab did not exercise option to be governed by new pension rules which came into force in 1964 and as such the said employee was governed by old rules under which widowed sister was entitled to get family pension, provided the said widowed sister was dependant on the deceased employee. In the reported case the Supreme Court did not pass any direction for grant of family pension in favour of the widowed sister of the deceased employee of Punjab, as she was not in a position to establish that she was dependent on the deceased employee. In the present case the deceased elder sister of the applicant is governed by West Bengal Services (Death-cum-Retirement Benefit) Rules, 1971 (in short, DCRB Rules, 1971). The unmarried sister is not included in the definition of “family” for the purpose of grant of “family pension” under provisions of Rule 7 (e) (2) of DCRB Rules, 1971. Since the deceased elder sister of the applicant was governed by DCRB Rules of 1971, and since the deceased employee of Punjab in the judgement of the Hon’ble Supreme Court was governed by the Rules applicable to the employees of Punjab, we are of the view that the ratio of “P.S.E.B. &amp; Ors. v. Ram Rakhi” (supra) cannot have any manner of application in the facts of the</p>	

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SCN.	<p>present case.</p> <p>On consideration of the provisions of Rule 7 (e) (2) of DCRB Rules, 1971 and the provisions of Rule 105 of DCRB Rules, 1971 the present applicant being unmarried sister of the deceased employee is not entitled to receive family pension. The argument advanced on behalf of the applicant about the policy of the State in connection with liberalised way of granting family pension to the dependant unmarried sister cannot be considered in the present application, wherein the applicant has not challenged DCRB Rules 1971 as arbitrary or violative of Article 14 of the Constitution of India.</p> <p>In view of our above findings the present application is dismissed.</p> <p>Let a plain copy of the order be handed over to both parties.</p> <p>(S.K. Das) MEMBER (A)</p> <p>(R.K. Bag) MEMBER (J)</p>	