ORDER SHEET
West Bengal Administrative Tribunal

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

Case No. *OA – 159 of 2017*

Serial No. and date of order	Smt. Jayanati Chakraborty Versus The State of West Bengal & Ors.	Office action with date and dated signature of parties when necessary.
	Order of the Tribunal with signature	
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10 *22/02/2019*	**For the Applicant** : Mr. K.S. Alam, Ld. Advocate. **For the State Respondent :** Mr. R.A. Chowdhury, Ld. Advocate. **For the A.G., W.B.** : Mr. B. Mitra, Depttl. Representative. The applicant has prayed for direction upon the respondents for grant of family pension with effect from the date of death of his father. It appears from the materials on record that one Sailesh Chandra Mukherjee, constable of Police retired from service and started getting pension w.e.f. 01.07.1975. Sailesh Chandra Mukherjee died on May 08, 1998 leaving behind his daughter – the applicant Jayanti Chakraborty as legal heir. The wife of Sailesh Chandra Mukherjee pre-deceased him long back. The husband of the applicant also died on June 15, 2010. The applicant being the widowed daughter of the deceased Sailesh Chandra Mukherjee, has prayed for family pension. The issue which calls for determination of the Tribunal is whether the applicant being the widowed daughter of the deceased government employee is	

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	entitled to get family pension. On our query, Learned Counsel representing the applicant has failed to enlighten us when the deceased employee Sailesh Chandra Mukherjee joined in the service as Constable of Police, though it is clear from the materials on record that the father of the applicant used to draw pension w.e.f. 01.07.1975.	
	By issuing Memorandum no. 732-F(Pen) dated November 12, 2008 issued by the Special Secretary to the Government of West Bengal, Department of Finance, Pension Branch, the State Government issued administrative direction for grant of family pension to the widowed/divorced/unmarried daughters of the government employees. The said memorandum dated November 12, 2008 was subsequently clarified by the Finance Department, Pension Branch by issuing Memorandum No. 162-F(Pen) dated March 29, 2012 wherein it is laid down that a government employee who retired before October 01, 1977 was required to surrender a portion of his Gratuity amounting to 02 (two) months' emoluments last drawn by the employee for the entitlement of family pension in terms of Rule 106 of West Bengal Services (Death-cum-retirement benefits) Rules, 1971. The said Memorandum dated March 29, 2012 has clarified that the	

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Form No.

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	unmarried/widowed/divorced daughters of the government employee who does not surrender 02 (two) months' emoluments last drawn by him or has withdrawn such amount of money subsequently, will not be eligible for family pension. Mr. B. Mitra, the Departmental Representative of the respondent A.G., W.B. has placed on record the original pension file of Sailesh Chandra Mukherjee where from it appears that Sailesh Chandra Mukherjee opted out of scheme of family pension by withdrawing the portion of the retiring Gratuity which should have been surrendered for getting family pension. Accordingly, the applicant being the widowed daughter of the deceased Sailesh Chandra Mukherjee is not entitled to get family pension. *As a result, the original application is **dismissed.** Let the file be returned to Mr. Mitra forthwith.* *Let a **Plain Copy** of the order be supplied to both parties.*	
Csm	**S. K. DAS** **R. K. BAG** **MEMBER(A)** **MEMBER(J)**	