

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present:-

The Hon'ble Justice Madhuresh Prasad

And

The Hon'ble Justice Supratim Bhattacharya

W.P.C.T. No. 153 of 2023

Sarbani Chakraborty

Vs.

Union of India &Ors.

For the Petitioner : Mr. Shamit Sanyal,
Ms. Priyakshi Banerjee

For the Respondents : Ms. Susmita Saha,
Mr. Niladri Saha

Judgment on : 3rd September, 2025

Supratim Bhattacharya, J.:

1. Heard the learned counsel for the petitioner and the learned counsel for the respondents.
2. The petitioner has assailed the order dated 8th May, 2023 passed in O.A. No. 1624 of 2022. Through the said Original Application, the petitioner/applicant prayed for the following directions:

“a. An order or direction be issued thereby directing the respondents to consider the representations made by the applicant and direct the respondents to set aside the notice

dated 7th day of October, 2021 and 28th day of December, 2021.

b. Pass an order directing the respondent no. 2 and 3 to consider the representation of your applicant and disburse the pension benefits.

c. Any further order or orders and/or direction or directions as the Hon'ble Tribunal may deem fit and proper."

3. After hearing the learned counsels representing the applicant/petitioner and the respondents, the Central Administrative Tribunal, Kolkata Bench ('Tribunal' for short) has been pleased to pass the following:

"6.1 Payment of family pension to the family member of a deceased government pensioner is governed by the CCS (Pension) Rules. Relevant parts of Rule 50 (Family Pension) of the CCS (Pension) Rules are extracted below :-

"(6) The family pension shall be payable to the members of the family of the deceased Government servant or pensioner in the following order, namely:-

(i) subject to provisions of sub- rule (8), widow or widower, (including a post-retiral spouse and judicially separated wife or husband),

(ii) subject to provisions of sub-rule (9), children (including adopted children, step children and children born after retirement of the pensioner),

(iii) subject to provisions of sub-rule (10), dependent parents (including adoptive parents) of the deceased Government servant or pensioner,

(iv) subject to provisions of sub-rule (11), dependent siblings (i.e. brother or sister) of the deceased Government servant or pensioner, suffering from a mental or physical disability, Explanation.- deceased Government servant or the pensioner."

From the above, it is clear that sibling of a deceased employee/pensioner is eligible for grant of family pension only if he/she is mentally or physically disabled. It is not the case of the applicant that she is disabled in any way. Her nomination as a family member by her brother in the family declaration form does not bestow any right on her to claim family pension. I also agree with the contention of the Learned counsel for the respondents that the relationship for the purpose of determining eligibility for grant of family pension is to be considered with respect to the employee of the government and not any other family member. Applicant's claim that being the unmarried daughter of her mother, she is entitled to family pension, is not tenable as the applicant is the sister of the employee. Her relationship with her mother, who was not an employee of the government, is of no relevance in determining her eligibility for grant of family pension.

6.2 In view of the above, it is held that the impugned letters dated 07.10.2021 and 28.12.2021 do not suffer from any legal infirmity. Respondents have not erred in rejecting the claim of the applicant to family pension.”

4. The factual matrix of the present *lis* is that the employee was receiving pension and on his death being an unmarried person his mother was receiving family pension. On the death of the mother of the employee, the petitioner being the sister of the employee, since deceased, has prayed for granting family pension in her favour, which has not been entertained and has been turned down.
5. The learned counsel representing the petitioner, that is, the sister of the employee, submits that the Tribunal has not considered the rules laid down in the Central Civil Service Pension Rules, 2021 and instead it

has relied upon Rule 50 sub-Rule 6(iv) as has been considered while passing the impugned order. The authorities have failed to consider Rule 11 sub-Rule (a). Rule 50 sub-Rule 6(iv) and Rule 50 sub-Rule 11 (a) as follows :

“(6)(iv) subject to provisions of sub-rule (11), dependent siblings (i.e. brother or sister) of the deceased Government servant or pensioner, suffering from a mental or physical disability,

Explanation.- For the purposes of this rule ‘widow’ and ‘widower’, shall mean a spouse, legally wedded to the deceased Government servant or the pensioner.”

“(11)(a) Where a deceased Government servant or pensioner is not survived by a widow or widower or a child or parents eligible for family pension or if the widow or widower, children and parents of the Government servant or pensioner cease to be eligible for family pension, the family pension at the rate specified in sub-rule (2) shall be payable to the dependent siblings suffering from a mental or physical disability, of the Government servant or pensioner for life if the siblings were wholly dependent upon the Government servant or pensioner immediately before his or her death.”

6. *Per contra*, the learned counsel representing the respondents submits that Rule 50 sub-Rule 11 (a) lays down that family pension shall be payable to the dependent siblings suffering from a mental or physical disability and stresses upon the issue of the mental or physical disability.
7. From the contentions of the learned counsels, it is apparent that the moot point is whether the petitioner being the sister of the employee,

since deceased, is entitled to family pension or not. From a plain reading of Rule 50 sub-Rule 11(a), it is apparent that a sibling of a deceased Government servant, or a pensioner is entitled to family pension only if the Government servant is not survived by a widow/widower or a child or parent eligible for family pension. The sibling is entitled to benefit of family pension also in case the widow/widower or child or parent of the Government servant who was receiving the family pension ceases to be eligible for family pension. Thus the rule gives a preference to widow/widower, child or parent of the Government servant for receiving family pension and only if they do not exist, or if they were getting such benefit, become ineligible for grant of such benefit due to certain circumstances, which may by way of example include the beneficiary himself/herself getting a public employment.

8. Thus, intention of the rule is clear that it does not consider a sibling to be at par with widow/widower, parent or child of the Government servant, for the purpose of grant of family pension. The sibling can only be considered if the other above noted specified relation are either not available, or have become ineligible for grant of family pension. As per the rule this is not the only circumstance/s required to be fulfilled. The rule imposes yet other conditions subject to fulfilment of which family pension can be granted to a sibling. The sibling can be granted benefit of family pension only if the sibling was wholly dependent on the Government servant or pensioner immediately before his or her

death and if the sibling is suffering from a mental or physical disability.

9. A reading of the Rule, therefore, reveals the concept. The Rule does not normally consider a sibling of a Government servant to be a dependant for grant of benefit of family pension. The Rule normally considers only the widow/ widower, parent or child of the Government servant to be a dependent of the Government servant for the purposes of grant of family pension. The Rule does not contemplate such a presumption of dependence in favour of a sibling for the purposes of grant of family pension. The grant of family pension to a sibling is, therefore, limited to a situation where the sibling is physically or mentally disabled. Also when the sibling is fully dependent on the Government servant at the time of death of the Government servant or pensioner. But either of these two conditions, in isolation are not sufficient for grant of family pension to a sibling and the Rule contemplates fulfillment of both conditions, namely the sibling suffering from a mental or physical disability and being wholly dependent upon the Government servant or pensioner immediately before death of the Government servant.

10. Herein, the petitioner sister though being dependent upon the Government servant or pensioner is neither a mentally nor physically disabled person, and therefore in terms of the rule, she is not entitled to grant of family pension.

11. Thus, whether the contention of the petitioner be considered as per Rule 50 sub-Rule 11(a) of the Central Civil Services Pension Rules, 2021 or Rule 50 sub-Rule 6(iv), there would be no change of fate as regards to the result in respect of the prayer of the petitioner. The petitioner being unable to comply both the criterion is not eligible to obtain family pension which she has sought for.
12. In such circumstance, this Court is of the opinion that the Tribunal has rightly reached the conclusion that the petitioner is not entitled to family pension which she has sought for.
13. As such, this Court does find it appropriate to interfere with the impugned order dated 8th May, 2023 passed by the Central Administrative Tribunal, Kolkata Bench in O.A. No.1624 of 2022.
14. Thus the Writ Petition being **W.P.C.T. No. 153 of 2023** is dismissed.
15. There will be no order as to costs.
16. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

I agree.

(Supratim Bhattacharya, J.)

(Madhuresh Prasad, J.)

Naba