

Order Sheet

IN THE HIGH COURT OF SINDH KARACHI

C. P. No. D – 7112 of 2019

Date	Order with Signature of Judge
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For order as to maintainability of petition

**25.01.2021**

Mr. Manzoor Ahmed, advocate for petitioner  
Ch. Khalid Rahim Arain, advocate for respondents 1 to 4

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The petitioner has impugned an order dated 24.09.2019 passed in SMA No.1349/2018 by learned District Judge Karachi East wherein respondents 1 to 4 being sisters of the deceased employee were held to be entitled for family pension.

We have heard the learned counsel for the parties and perused the relevant law. In terms of Rule 4.10 (2)(i)(a) of West Pakistan Civil Servants Pension Rules 1963, the petitioner being husband of deceased employee was/is entitled for the family pension sanction under this Rule while respondents 1 to 4 being sisters of the deceased employee are nowhere entitled in terms of this Rule. Respondents 1 to 4 could not avail benefit of any part of said Rule under the facts and circumstances of the case. Respondents' counsel has relied upon Rule 4.10(2)(v) that eldest surviving son of a deceased son of the government servant would be entitled. This Rule also does not provide any benefit to respondents 1 to 4. Learned counsel for the respondents also relied upon Rule 4.10 (1)(b) that if the government servant had more than one wife, and the number of his surviving widows and children does not exceed 4, the pension shall be divided equally among the surviving widows and eligible children, even this rule does not provide any benefit to the sisters of deceased employee. Lastly, learned counsel for the respondents 1 to 4 has made reliance in the case of **Muhammad Mumtaz v. Mst. Umra Bevi and another (NLR 1999 Civil 350)** which provides that widowed sister of deceased employee who died issueless would be entitled to payment of whole amount of family pension under rule 4.10(2)(b) of Family Pension Rules. This does not disclose a situation when husband of the deceased wife/employee survived hence the case as referred to is different and distinguishable from the facts of the case in hand.

Hence in view of the above facts and circumstances, this petition is allowed and impugned order dated 24.09.2019 passed in SMA

No.1342/2018 by learned District Judge Karachi East is set aside to the above extent and the petitioner in terms of the aforesaid rules is entitled to family pension of the deceased employee.

This petition is disposed of in the above terms.

J U D G E

J U D G E

Ashraf