

(2001) 07 P&amp;H CK 0207

**High Court Of Punjab And Haryana At Chandigarh****Case No:** Civil Writ Petition No. 13814 of 2000

Lichhami Devi

APPELLANT

Vs

State of Haryana

RESPONDENT

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**Date of Decision:** July 16, 2001**Acts Referred:**

- Constitution of India, 1950 - Article 14, 21, 226

**Hon'ble Judges:** V.K. Jhanji, J**Bench:** Single Bench**Advocate:** M.K. Sangwan, for the Appellant; N.S. Bhinder, DA, for the Respondent**Final Decision:** Allowed

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**Judgement**

V.K. Jhanji, J.

Petitioners herein are old parents of one Joginder Singh who was working in Haryana Roadways as a conductor. He was initially appointed for 89 days on 25.1.1994 in Chandigarh Depot and was subsequently transferred to Haryana Roadways Kaithal Depot. Unfortunately Joginder Singh died on 22.5.1999. Both the petitioners were fully dependent upon their son-Joginder Singh. After his death, petitioner No. 2 applied for family pension but the same was neither sanctioned nor paid to him and therefore, present writ petition was filed.

2. Upon notice of the petition, respondents No. 1 to 3 in their written statement, stated that petitioners are not entitled to family pension because as per Family Pension Scheme, parents are not included in the category of relatives of deceased who are entitled to family pension. They have further submitted that Joginder Singh had only 8 months and 14 days qualifying service whereas for being entitled to family pension, the employee concerned must have one year's continuing/qualifying service.

3. So far as the first objection of respondents that parents of the employee have been excluded from family pension, counsel for petitioners has placed reliance upon

judgment of this Court in State of Punjab and Anr. v. Kharak Singh and Anr. 1998(1) SCT 556 (PH) : 1998(1) RSJ 412 wherein Division Bench of this Court has held that the rule of exclusion of parents of deceased government employee from the concept of family has no rationale and is totally arbitrary. It has been held that the parents cannot be excluded from or denied the benefit of family pension. In view of the judgment of Division Bench referred to above, the objection of respondents that the parents are not entitled to family pension is not sustainable.

4. in regard to the objection that Joginder Singh had not put in one year's qualifying service, counsel for the petitioners has placed on record, order 591/E.A dated 14.3.2001 of General Manager, Haryana Roadways, Chandigarh whereby as per direction given in CWP No. 10870 of 2000 titled Gurjant Singh and Ors. Drivers, Haryana Roadways, Chandigarh v. State of Haryana and CWP No. 12697 of 1999 services of those Drivers and Conductors who were appointed on adhoc basis and had completed 2 years service, had been regularised. Services of Joginder Singh had been regularised with effect from 25.1.1996 meaning thereby that on the date of death i.e. 22.5.1999, Joginder Singh had put in more than one year's regular continuing service. Accordingly, second objection for denying family pension to the petitioner, too is not sustainable.

5. Resultantly, the writ petition is allowed with costs. Respondents are directed to grant family pension to the petitioners immediately and release the amount of arrears of family pension to the petitioners within 30 days from the date of receipt of copy of this order. Petitioners shall also be entitled to interest at the rate of 12 per cent per annum from the date of accrual of pension till the date of payment. Costs are quantified at Rs. 2000/-.

6. Petition allowed.