(2001) 09 P&H CK 0137

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Writ Petition No. 15998 of 1994

Jaswinder Kaur		APPELLANT
	Vs	
The State of Punjab and Others		RESPONDENT

Date of Decision: Sept. 12, 2001

Acts Referred:

- Punjab Civil Services Rules - Rule 6.17, 6.17(2)

Hon'ble Judges: V.K. Jhanji, J

Bench: Single Bench

Advocate: Malkiat Mann, for the Appellant; S.C. Sibal, Addl. AG and S.K. Bhanot, DAG, for the Respondent

Final Decision: Allowed

Judgement

V.K. Jhanji, J.
Sukhpal Singh joined as Excise and Taxation Officer after he was selected by Punjab Public Service Commission, Paliala. He was put on probation for two years but he could not complete the period of probation as he died on 24.6.1989. His mother submitted an application for grant of family pension but the same was declined on the ground that mother is not included in the definition of family under the Family Pension Scheme. Hence, this writ petition by Jaswinder Kaur, mother of the deceased, for directing the respondents to grant her family pension.

2. One of the stand taken by the respondents is that the mother is not included in the definition of "family" under the Family Pension Scheme. Against this, learned counsel for the petitioner cited judgment of this Court in State of Punjab and Another Vs. Kharak Singh Kang and Another, wherein Division Bench of this Court has held that rule excluding parents from the definition of family is totally arbitrary and not rationale.

3. Rule 6.17 of Punjab Civil Services, Volume II so far it excludes parents from the family was held to be ultra vires and accordingly struck down. In view of judgment of "Division Bench" of this Court in Kharak Singh Kang"s case (supra) family pension cannot be denied to the petitioner.

4. Faced with, this situation, counsel for the respondents contended that Sukhpal Singh was appointed as Excise and Taxation Officer on temporary basis and was not regular employee at the time of his death.

5. This stand of the respondents is not correct.

6. Sukhpal Singh was selected by Punjab Public Service Commission, Patiala and in pursuance of his selection, he joined as Excise and Taxation Officer. As per rules, he was on probation for 2 years but he was a regular employee because his appointment was against a permanent post.

7. Counsel for the respondents then contended that Sukhpal Singh had not completed the minimum period of one year of continuous service as required by Rule 6.17(2) of Punjab Civil Services Rules, Volume II and, therefore, petitioner is not entitled to family pension. Proviso to Rule 6.17 of ibid Rules provides that the condition of completing one year"s continuous service will not be applicable in the case of Government employee who has been medically examined and found fit for government service. It is admitted case of parties that before Sukhpal Singh had joined service, he was examined medically and was found fit for entering into service.

8. Consequently, this writ petition is allowed and respondents are directed to grant family pension to the petitioner with effect from the date she became entitled to it. Ar rears of family pension shall be paid to the petitioner within a period of three months from today failing which petitioner shall be entitled to interest at the rate of 12 % p.a. from the date the arrears become due till actual payment.