

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**Review Application No.81 of 2014 (O&M)
in
LPA No.1463 of 2013 (O&M)
Date of decision: May 08, 2015**

Dhan Kaur

----Appellant

Versus

State of Haryana and another

----Respondents

**Coram: Hon'ble Mr.Justice S.J.Vazifdar
The Acting Chief Justice and
Hon'ble Mr. Justice Harinder Singh Sidhu**

Present: Ms. Mamta Singla Talwar, Assistant Advocate
General, Haryana for applicant – State.

Mr.J.P.Dhull, Advocate for the
non-applicant/ appellant.

HARINDER SINGH SIDHU, J.
CM-4225-LPA-2014:

For the reasons stated in the application, delay of 270
days in filing the review application is condoned.

RA-81-2014 :

This application has been filed by the respondent – State
of Haryana seeking review of the judgment dated 10.1.2014 passed
in LPA No.1463 of 2013. Vide the aforesaid judgment the appeal
filed by the appellant against the judgment dated 3.7.2013 passed in
CWP No.52 of 2012, dismissing her writ petition, was allowed and
the appellant was held entitled to the benefit of family pension, being

the mother of the deceased employee with effect from the date of death of her son i.e. 6.5.1996 instead of from 21.7.2006 as granted by the respondent-State.

The son of the appellant was appointed as a Conductor on contractual basis on 28.2.1994 . He died on 6.5.1996. In terms of the policy of the Government for regularization of the employees who had completed two years of service, order dated 30.11.2009 was passed, whereby, deceased son of the appellant was treated as having been regularized w.e.f. 28.3.1996.

At the time of his death, there was no provision for grant of family pension to the parents of deceased Government employee who were dependant on him. However, vide notification dated 21.7.2006, the Punjab Civil Services Rules (Vol.II) were amended and in Appendix-I in the Family Pension Scheme, 1964, the parents of the deceased Government employee, who were wholly dependent on the Government employee when he/she was alive, were made eligible for the grant of family pension, provided the deceased employee had not left behind him a widow or a child. In view of this amendment, the appellant was granted family pension w.e.f. 21.7.2006 vide order dated 15.3.2011 . The appellant impugned the action of restricting the grant of family pension w.e.f. 21.7.2006 and prayed that she be granted family pension w.e.f. 7.5.1996, the date of death of her son.

The petition was contested by the applicant/respondent – State on the ground that it was only by virtue of an amendment in

the Family Pension Scheme, 1964 vide notification dated 21.7.2006 that parents of deceased employee were included in the list of dependents eligible for grant of family pension. It was further their case that the said amendment does not have retrospective effect.

Learned Single Judge dismissed the writ petition holding that the benefit of family pension could be granted to the parents of the deceased employee only from the date of the notification when they were included in the class of beneficiaries under the Family Pension Scheme.

Aggrieved, the appellant filed LPA, which was allowed. Reliance was placed upon a decision in **Lichhami Devi vs. State of Haryana, 2001(4) S.C.T. 642**, which decision in turn, was rendered following the judgment in **State of Punjab and another vs. Kharak Singh Kang and another, 1998(1) SCT 556 (P&H)(DB)**, wherein, it had been held that the rule of exclusion of parents of a deceased government employee from the concept of family for the purposes of family pension scheme had no rationale and was arbitrary.

Against the decision in LPA No.1463 of 2013, the respondent State filed SLP, which was disposed of vide order dated 24.8.2014.

In the SLP, it was pointed out that the Division Bench judgement in ***Kharak Singh Kang's case*** (supra) had, in fact, been reversed by the Hon'ble Supreme Court. Noting that this fact had not been brought to the notice of the LPA Bench, liberty was granted to the respondent – State to file a review before the High Court.

Accordingly, the present Review Application has been filed.

We have gone through the judgment of the Hon'ble Supreme Court in **State of Punjab vs. Devinder Kaur (1999)9 SCC 12**. The Hon'ble Supreme Court while reversing the decision of this court in ***Kharak Singh Kang's*** case (supra) has noted that as the class of parents was not included at all in the Family Pension Scheme of 1964, therefore, there was no occasion for the High Court to strike down any part of the said supposedly illegal or arbitrary condition.

In view of the fact that the decision relied on while allowing the LPA, had already been reversed by the Hon'ble Supreme Court, the present Review Application is allowed. The order dated 10.1.2014 passed in LPA No.1463 of 2013 is recalled.

Let the LPA be listed for hearing, as per Roster.

(S.J.VAZIFDAR)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

May 08, 2015

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