

“In this view of the matter, in our view it is not necessary to decide the further contention of the learned counsel for the appellant that the Rent Act is a self contained code and the provisions of CPC as a whole are not applicable to the proceedings under the Rent Act.”

(8) From the perusal of the orders passed by the authorities below, it is apparent that both the authorities below have concurrently held that the personal necessity of the landlords is clearly proved. In view of the aforesaid findings, the landlords were obviously entitled to seek the ejection of the tenant.

(9) In view of the aforesaid discussion, the present revision petition is allowed and the orders passed by the Authorities Below are set aside. Consequently, the ejection petition filed by the landlords is also allowed and the tenant is directed to hand over the vacant possession of the premises in dispute to the landlords within a period of three months from today.

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**R.N.R.**

*Before S.S. Nijjar, and Nirmal Yadav, JJ.*

SUNDRA DEVI,—*Petitioner*

versus

UTTAR HARYANA BIJLI VITRAN NIGAM LTD.

AND ANOTHER,—*Respondents*

C.W.P. No. 10028 of 2004

25th August, 2005

*Constitution of India, 1950—Art. 226—Death of husband of petitioner who was working as regular ALM with H.S.E.B.—Claim for family pension—Rejection of—Grant of family pension—Minimum qualifying service for eligibility of pension required is 5 years under Cl.4(i) of the Pension Scheme—Qualifying period of five years was reduced to one year by Notification dated 28th September, 1979—Husband of petitioner rendered 4 years and 1 day service—High Court holding that even less than one year service is enough for the grant of family pension—Petition allowed while directing the respondents to release the family pension alongwith arrears to the petitioner.*

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*Held*, that under Rule 4 of the Family Pension Scheme, 1964 minimum service required is of one year. In the case of Savitri Devi *versus* State of Haryana and others, 1996 (2) RSJ 854, the Scheme has been interpreted by the Division Bench and it has been held that even less than one year service is enough for the grant of family pension. The respondents are duty bound to implement the judgment. Hence, the writ petition is allowed. The respondents are directed to release the family pension alongwith the arrears to the petitioner.

(Paras 5 & 7)

J.S. Maanipur, Advocate, *for the petitioner.*

Alok Jain, Advocate, *for the respondents.*

### JUDGMENT

**S.S. NIJJAR, J. (ORAL)**

(1) With the consent of counsel for the parties, the writ petition is taken up for final disposal at motion stage itself.

(2) The husband of the petitioner was working with the Haryana State Electricity Board (now Uttar Haryana Bijli Vitran Nigam Ltd.) on work charged basis from 1st June, 1967. His services were regularised on 27th June, 1970. At the time of his death, he was working as regular ALM. The petitioner submitted the claim for family pension, but the same was not granted. Ultimately, the petitioner served a legal notice on 7th November, 2003. When no decision was taken on the same, the petitioner filed CWP No. 283 of 2004 which was disposed of by this Court by order dated 9th January, 2004. The respondents were directed to treat the legal notice as a representation and take a decision thereon within a period of four months. It was also directed that if the petitioner's claim is to be denied, the respondents should pass a speaking order and communicate the same to the petitioner. In compliance of the orders passed by this Court, the respondents have conveyed a decision dated 27th April, 2004 rejecting the claim of the petitioner. It has been stated that at the time of the death of the husband of the petitioner, the total service to the credit of the deceased was four years and one day i.e. less than 5 years. Minimum service required for grant of family pension under the Civil Service Rules Vol. II is five years. The respondents have distinguished

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the judgments of this Court passed in the cases of **Savitri Devi versus State of Haryana and others, (1)** and **Smt. Sharmila Devi versus UHBVL and others, (2)** on the ground that at the relevant time, under the instructions, the minimum qualifying service required was of only one year. Learned counsel for the petitioner has submitted that the matter is squarely covered by the aforesaid judgments of this Court. Learned counsel has also relied on the judgment of a Division Bench of this Court passed in CWP No. 12449 of 2003 decided on 8th April, 2005.

(3) The respondents have filed a written statement. They have not denied the service details as given by the petitioner in paragraph 2 of the writ petition. It is stated that at the time of the death of the husband of the petitioner in the year 1976, minimum qualifying service for eligibility of pension was five years service, under Clause 4(i) of the Pension Scheme. Qualifying period of five years was reduced to one year by Notification dated 28th September, 1979. Subsequently, *vide* Notification dated 4th February, 1992, even the service rendered by a work charged employee was also made reckonable towards retiral benefits. It is also stated that the petitioner had been appointed on compassionate ground as a Peon in January, 1978. She would, therefore, not be entitled to any family pension.

(4) We have heard the learned counsel for the parties at length and perused the paper-book.

(5) Learned counsel for the petitioner submits that the petitioner is entitled to family pension under the Family Pension Scheme, 1964. Under Rule 4 of the aforesaid scheme, minimum service required is of one year. In the case of **Smt. Savitri Devi (supra)**, the scheme has been interpreted by the Division Bench and it has been held that even less than one year service is enough for the grant of family pension. The respondents are duty bound to implement the judgment. The aforesaid judgment has been followed by a Division Bench of this Court in the case **Sharmila Devi (supra)**. In the judgment rendered in **Smt. Savitri Devi (supra)**, it has been held as under :—

“3. The mandate of the aforementioned provision appears to be that in case the Government servant at the time of entry into service produces a Medical Certificate of Fitness, the

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- (1) 1996 (2) RSJ 854  
(2) 2002 (2) S.C.T. 179

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family would be entitled to family pension even if he dies within less than one year.”

(6) Following the aforesaid judgment rendered in **Smt. Savitri Devi (supra)**, a Division Bench of this Court, of which one of us (S.S. Nijjar, J.) was a member, has also allowed CWP No. 12449 of 2003 (**Jagwati and another versus State of Haryana and others**). In our opinion, the matter is squarely covered by the aforesaid judgment.

(7) In view of the above, the writ petition is allowed. The respondents are directed to release the family pension alongwith the arrears to the petitioner with a period of three months of the receipt of a certificate copy of this orders. No costs.

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**R.N.R.**

*Before S. S. Nijjar, and Nirmal Yadav, JJ.*

**SUGAR FEDERATION COMMON CADRE OFFICER' WELFARE  
AND TECHNICAL ASSOCIATION (REGD.),—Petitioner**

*versus*

**STATE OF PUNJAB & OTHERS,—Respondents**

*C.W.P. No. 14084 of 2005*

6th September, 2005

*Constitution of India, 1950—Art. 226—Punjab State Cooperative Sugar Mills Service (Common Cadre) Rules, 1981—SUGARFED withdrawing concession of free electricity, water and accommodation to the common cadre employees—High Court directing SUGARFED to consider the matter in the light of the documents on record of the writ petition filed by employees—General Managers of all the Sugar Mills in a meeting taking a decision to bring about uniformity in the pay and allowances of the employess—Such a decision cannot be said to be either arbitrary or without jurisdiction—Employees are governed by the 1981 Rules—Conditions of service of a government servant can be unilaterally altered by the competent authority—No vested or accrued rights of the petitioners taken away—Petition dismissed.*