



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

D.B. Spl. Appl. Writ No. 1433/2018

1. Punjab National Bank, Through Its General Manager,
Personnel Administration Division, Head Office 7-Bhikaiji
Cama Place, New Delhi
2. Chief Manager, Punjab National Bank, Meera Chowk
Branch, Sri Ganganagar (Raj.) -----Appellants

Versus

Mukesh Kumar Soni

-----Respondent

For Appellant(s) : Mr. Deepak Vyas.
For Respondent(s) : Mr. Sushil Bishnoi.

**HON'BLE MR. JUSTICE SANDEEP MEHTA
HON'BLE MR. JUSTICE KULDEEP MATHUR**

J U D G M E N T

PRONOUNCED ON ::: 16/08/2022

RESERVED ON ::: 19/07/2022

BY THE COURT: (PER HON'BLE KULDEEP MATHUR, J.)

The intra court appeal has been preferred for assailing the validity and correctness of judgment dated 16.05.2018 passed by learned Single Bench whereby the appellants-respondents (Punjab National Bank) were directed to provide compassionate appointment to the respondent on a suitable post, as per his eligibility.

Briefly stated facts of the case are that Shri Sohan Lal, father of the respondent while holding the post of Head Cashier in Punjab National Bank, Branch-Meera Chowk, Sriganaganagar passed away on 21.05.2015 succumbing to prolonged illness. The respondent



after the sad demise of his father submitted an application dated 02.07.2015 seeking appointment in the appellant-bank on compassionate grounds. The appellants-bank rejected the application vide order dated 20.02.2016 on the ground that respondent family's financial position did not portray any indigent circumstances warranting employment on compassionate grounds.

Aggrieved by the order dated 20.02.2016, the respondent filed a writ petition before learned Single Bench with a prayer to provide him compassionate appointment on a suitable post as per

"Scheme for Compassionate Appointment to a dependent family member of a deceased employee/employee retired on medical grounds-2014" (hereinafter referred to as 'Scheme

of 2014') in force. The appellant-bank, by way of filing reply averred that the purpose of providing appointment on compassionate grounds is to mitigate the hardship ensued due to the death of the sole bread earner in the family. Death of an employee in harness does not entitle the family to claim compassionate appointment as of right. Under the provisions of the Scheme of 2014, it is incumbent upon the appellant-bank to make objective assessment of the financial condition of the family of the deceased employee. While objectively assessing the application of the respondent, it was noticed that elder son of the deceased employee is employed in TCS (Tata Consultancy Services) with an annual income of ₹6.47 lakhs. The family had received terminal dues to the extent of ₹16.42 lakhs with no financial liability. Apart from this, family owned two houses and was in receipt of family pension to the tune of ₹15,993 per month. The deceased employee was due to retire in next 1½ years of his death.



The learned Single Bench, vide judgment dated 16.05.2018 allowed the writ petition observing that compassionate appointment cannot be denied only by considering the family assets, retiral benefits and private job of one of the deceased's son. The learned Single Bench quashed the impugned order dated 20.02.2016 and directed the appellant-bank to provide respondent compassionate appointment on a suitable post as per his own eligibility. The said order is assailed in this intra court appeal.

Learned counsel for the appellant-bank contended that the compassionate appointment in the appellant-bank is governed by the Scheme of 2014 introduced w.e.f 25.09.2014. The object of the Scheme of 2014 is to *enable to family of a deceased employee/ employee retired on medical grounds due to incapacitation before reaching the age of 55 years, to tide over the sudden financial crisis.* The Scheme of 2014 makes it imperative to take into account financial condition of the family of the deceased employee, its assets and liabilities (including the benefits received under the various welfare schemes) and all other relevant factors such as the presence of an earning member, the size of the family etc. while considering a request for appointment on compassionate grounds. The clause 20 (III) of the Scheme of 2014 reads as under:

"An application for compassionate appointment shall, however, not be rejected merely on the ground that the family of the employee has received the benefits under the various welfare schemes. While considering a request for appointment on compassionate ground a balanced and objective assessment of the financial condition of the family shall be made taking into account its assets and liabilities (including the benefits received under the various welfare schemes mentioned above)



and all other relevant factors such as the presence of an earning member, size of the family etc."

emphasis supplied

Learned counsel for the appellant submitted that the learned Single Bench failed to consider that employment under Scheme of 2014 can be yeilded only if there are indigent circumstances necessitating employment to one of the dependents.

He further submitted that **Canara Bank & Anr. v. M. Maheesh Kumar (2015) 7 SCC 412** relied upon by the learned Single Bench the provisions of "Dying in Harness Scheme" implemented w.e.f. 08.05.1993 were under consideration. In the present case, the father of respondent had passed away on 21.05.2015, therefore, the situation would covered by the Scheme of 2014 introduced w.e.f. 25.09.2014. The scheme in vogue clearly provides for a balanced and objective assessment of the financial condition of the family of the deceased employee. Learned counsel Shri Vyas placed reliance, on the judgment of Hon'ble Apex Court rendered in the case of **Life Insurance Corporation of India v. Asha Ramchandra Ambedkar (Mrs.) and Anr. (1994) 2 SCC 718**, and urged that the court cannot order appointment on compassionate grounds *dehors* the provisions of statutory regulation and instructions. The request for compassionate appointment is to be considered strictly in accordance with the prevailing scheme and no discretion is available with the authority to grant compassionate appointment *dehors* the scheme. He asserted that the financial condition of the family was objectively considered by the appellant-bank and after due consideration, the request for compassionate appointment



had been rejected. Counsel further relied on judgment of the Hon'ble Apex Court in the case of **Punjab National Bank & Ors. v. Ashwini Kumar Taneja, (2004) 7 SCC 265**, to contend that compassionate appointment cannot be claimed as a matter of right.

Per Contra, the counsel representing respondent submitted that the object of the Scheme, 2014 is to provide a helping hand to the family of employee, dying in harness and this help should be in such nature that the family may maintain itself with minimum dignity. The counsel argued that the application for compassionate appointment was rejected by a non-speaking order. The rejection order is thus, unsustainable in the eyes of law. He further submitted that the family is not having any other source of income and the retiral benefits of the deceased as released by the appellant-bank have been utilized to repay the medical expenses of the deceased. He thus implored the court to uphold the order dated 16.05.2018 passed by learned Single Judge.

Heard learned counsel for the parties.

Factors to be taken into consideration for providing employment to the dependents of a deceased employee on compassionate ground are well settled. In **Umesh Kumar Nagpal Vs. State of Haryana & Ors.**, reported in **(1994) 4 SCC 138**, Honorable the Supreme Court observed that mere death of an employee in harness does not entitle his family to such source of livelihood (compassionate appointment). The Government or the public authority concerned has to examine the financial condition of the family of the deceased, and upon being satisfied, that but



for the provision of employment, the family will not be able to meet the sudden financial crisis that a job is to be offered to the eligible member of the family. It was further observed that compassionate appointment cannot be granted after a lapse of reasonable period, which must be specified in the rules. The consideration for such employment is not a vested right, which can be exercised at any time in future. It cannot be claimed or offered whatever the lapse of time and after the crisis is over.

In **General Manager (D&PB) & Ors. Vs. Kunti Tiwary & Anr.**, reported in **(2004) 7 SCC 271**, the Hon'ble Supreme Court has observed that terminal benefits received by the family of the deceased employee and other movable and immovable property possessed by it portrayed that the financial condition was not penurious. In such circumstances, denial by the employer bank to give compassionate appointment to the deceased's son was held to be valid. It was further observed that in such circumstances, the High Court erred in diluting the criterion of penury to one of "not very well-to-do" while directing the Bank to appoint the deceased's son.

In **State Bank of India & Anr. v. Somvir Singh** reported in **(2007) 4 SCC 778**, Hon'ble Supreme Court held as under:

".. ..The hardship of the dependent does not entitle one to compassionate appointment dehors the scheme or the statutory provisions as the case may be. The income of the family from all sources is required to be taken into consideration according to the scheme which the High Court altogether ignored while remitting the matter for fresh consideration by the appellant Bank. It is not a case where the dependents of the deceased employee are left without any means of livelihood" and unable to make both ends meet. The High court ought not to have disturbed the finding and



the conclusion arrived at by the appellant Bank that the respondent was not living hand-to-mouth. The High Court cannot dilute the criterion of penury to one of "not very well-to-do". The view taken by the Division Bench of the High Court may amount to varying the existing scheme framed by the appellant Bank. Such a course is Impermissible in law."

In **State of Gujarat & Ors. Vs. Arvind Kumar T. Tiwari &**

Anr., reported in **(2012) 9 SCC 545**, Hon'ble Supreme Court has

observed that compassionate appointment should be made strictly in accordance with the rules, regulations or administrative instructions governing the subject, taking into consideration the financial condition of the family of the deceased. It was further held that such employment is an exception to the constitutional provisions contained in Articles 14 and 16 of the Constitution of India. The object of compassionate appointment is only to enable the family of the deceased to overcome sudden financial crisis and not to confer any status upon it.

The Hon'ble Supreme Court summarised the principles governing the grant of appointment on compassionate grounds in the case of **Director of Treasuries in Karnataka and Anr. vs. V. Somyashree (2021) 12 SCC 20** as under:

- “(i) that the compassionate appointment is an exception to the general rule;
- (ii) that no aspirant has a right to compassionate appointment;
- (iii) the appointment to any public post in the service of the State has to be made on the basis of the principle in accordance with Articles 14 and 16 of the Constitution of India;
- (iv) appointment on compassionate ground can be made only on fulfilling the norms laid down by the State's policy and/or satisfaction of the eligibility criteria as per the policy;



(v) the norms prevailing on the date of the consideration of the application should be the basis for consideration of claim for compassionate appointment.”

From the perusal of the pleadings and documents available on record, it is apparent that the respondent's father expired on 21.05.2015 while he was serving as a Head Cashier in the appellant-bank. The respondent applied for compassionate appointment as per the Scheme of 2014. The abovementioned scheme requires financial condition and all other relevant factors such as the presence of an earning member, size of the family etc. to be taken into account while considering an application for compassionate appointment. The appellant-bank rejected the respondent's claim on 20.02.2016 upon arriving to a conclusion that the family was not facing indigent circumstances warranting employment of one of the family member under the Scheme of 2014. It is pertinent to note here that no material was placed on record to quantify the amount incurred in medical treatment of the deceased employee. Thus, in light of the principles laid down in the above decisions, the appellant-bank acted within the framework of law while rejecting the application for compassionate appointment filed by the respondent.

As a result of the above discussion, the instant special appeal deserves to be and is hereby allowed. The impugned judgment passed by learned Single Bench is hereby quashed and set aside.

No order as to costs.

(KULDEEP MATHUR),J

(SANDEEP MEHTA),J

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