***IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 12th October, 2011

\+ **W.P.(C) 6611/2007, CM No.4621/2010 (for presenting documents) & Crl.M.A. No.4913/2011 (u/S 340 Cr.P.C.)**

RAJEEV DHAWAN ..... Petitioner

Through: Petitioner-in-person.

Versus

CHAIRMAN,
PUNJAB NATIONAL BANK & ANR ... Respondents

Through: Mr. Jagat Arora & Mr. Rajat Arora, Advocates.

AND

\+ **W.P.(C) 2529/2011**

RAJEEV DHAWAN ..... Petitioner

Through: Petitioner-in-person.

Versus

CPIO MARD, THE RTI CELL ..... Respondent

Through: Mr. Jagat Arora & Mr. Rajat Arora, Advocates.

AND

\+ **W.P.(C) 4149/2011**

RAJEEV DHAWAN ..... Petitioner

Through: Petitioner-in-person.

Versus

CPIO, MARD, THE RTI CELL & ANR. .... Respondents

Through: Mr. Jagat Arora & Mr. Rajat Arora, Advocates

CORAM :-
HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

1.	Whether reporters of Local papers may be allowed to see the judgment?	Not necessary
2.	To be referred to the reporter or not?	Not necessary
3.	Whether the judgment should be reported in the Digest?	Not necessary

RAJIV SAHAI ENDLAW, J.

1. W.P.(C) No.6611/2007 has been filed seeking mandamus for compassionate appointment in the respondent Punjab National Bank (PNB). While claiming the said relief, it is the case of the petitioner that the respondent PNB has been discriminating between the various applicants for compassionate appointment and has not been following a uniform practice in that regard; accordingly some other reliefs qua discrimination have also been claimed.

2. The petitioner who is a practicing advocate of this Court has argued that his father expired on 11th April, 2004; that he applied for compassionate appointment on 17th June, 2004; that his case was recommended by the Regional Manager and Zonal Manager of the respondent Bank but the Head office of the PNB kept the application pending while continuing to allow the applications of others filed subsequent to the application of the petitioner; that with effect from 29th

October, 2004 there was a change in the policy of the Banks; the provision for compassionate appointment was substituted by *ex gratia* payment; that owing to the said change the petitioner was not granted compassionate appointment though others continued to be appointed on compassionate grounds even thereafter, compelling him to file the writ petition.

3. Notice of the writ petition was issued and pleadings have been completed. When the matter was listed before this Court on 4th September, 2008, after some hearing the counsel for the respondent Bank agreed that the application of the petitioner for compassionate appointment would be considered and disposed of giving reasons. The said offer of the respondent Bank was accepted by the petitioner without prejudice to his rights and contentions.

4. In pursuance to the aforesaid order, the respondent Bank considered the application of the petitioner for compassionate appointment and rejected the same vide order dated 17th October, 2008 at pages 218 and 219 of the writ petition's paper book.

5. Rule was issued in the writ petition on 25th November, 2010. The petitioner filed CM No.4913/2011 under Section 340 Cr.P.C.; vide order dated 27th April, 2011 it was directed that the said application will be heard along with the writ petition. The petitioner appearing in person and the counsel for the respondent Bank have been heard.

6. The respondent Bank in the order dated 17th October, 2008 (supra) has rejected the application of the petitioner for compassionate

appointment on the following grounds:-

(i) That after the death of the father of the petitioner, the family got net amount of ₹7,29,456/- (after adjustment of loans from Bank, Society etc.) in respect of terminal dues besides amount of ₹78,300/- in PPF account and pension of ₹992/- from Jeevan Suraksha Policy. The family was having NSCs worth ₹75,000/- and also a house to live in;

(ii) That the object of compassionate appointment was to ensure that the family of an employee dying in harness was not left without any means of livelihood ;

(iii) The family of the petitioner could not be said to be in such financial crisis or distress.

7. The petitioner on enquiry informs that his father died at the age of 56 years owing to cancer and leaving behind his widow, the petitioner as son and a daughter. On further enquiry it is informed that the petitioner at the time of the demise of his father was 28 years of age and his sister was 26 years of age. On yet further inquiry it is informed that the mother of the petitioner was a housewife and both petitioner and his sister were then graduates, though it is stated that both were unemployed. The petitioner further informs that he completed his LLB in the year 2009 and since then has been practicing as an Advocate; that his sister did her Masters after the demise of her father and was married in the year 2006.

8. The main argument of the petitioner is of discrimination. The

petitioner in this regard has invited attention to the order dated 27th June, 2003 of the respondent Bank at pages 750 to 753 of the paper book, of providing compassionate appointment to the daughter of one Sh. R.L. Joshi employed as Chief Manager of the respondent Bank. The petitioner therefrom states that though the said family had assets/terminal benefits of ₹16.64 lacs i.e. much more than the assets of the family of the petitioner but still compassionate appointment was granted.

9. However a reading of the order granting compassionate appointment to the daughter of Sh. R.L. Joshi shows that said Sh. R.L. Joshi had died in a road accident while travelling on Bank's work; he had left behind a widow who was a heart patient, four daughters of which two were married and the other two were 20 and 16 years of age and still studying and one son who was mentally retarded. The factors which weighed in granting compassionate appointment to the daughter who was 20 years of age of the said Sh. R.L. Joshi were that he had died in an accident while on official duty, his son was mentally retarded and two unmarried daughters were still studying and wife is a heart patient.

10. The petitioner cannot be placed at par with the aforesaid handicaps which the family of Sh. R.L. Joshi suffers.

11. The petitioner has next, on the aspect of discrimination invited attention to the order dated 8th October, 2004 at pages 746 to 749 of the paper book, sanctioning compassionate appointment to the widow of Sh. Ashok Mehta, Executive Senior Manager of the respondent Bank. The

petitioner on the basis thereof contends that the said family also was in receipt of terminal benefits of ₹8.48 lacs and had savings of ₹1.48 lacs and two residential houses. It is again contended that notwithstanding the family of Sh. Ashok Mehta being more affluent, compassionate appointment was granted.

12. However a perusal of the said order of the compassionate appointment shows that the factors which prevailed in that case were that Sh. Ashok Mehta died at young age leaving behind his young widow and two children at the stage of college level education.

13. I am again of the opinion that the case of the family of Sh. Ashok Mehta cannot be compared with the case of the family of the petitioner where both children were of age where they are expected to be settled in life, though it is contended that both the petitioner and his sister were unemployed. The petitioner on enquiry states that he had completed his graduation in the year 1999 i.e. 5 years prior to the demise of his father.

14. The petitioner has next contended that the respondent Bank has practiced falsehood. Though vehement arguments are made in this regard but upon being asked to establish from the file, the petitioner has invited attention to page 641 of the paper book being a counter affidavit dated 31st October, 2007 of the respondent Bank in this petition. It is urged that while in para III thereof it is stated as under:-

> *"III. That the deponent states that as per the provisions of the Scheme circulated vide HRD Division Circular No.235 dated 7-1-2005, all the applications for compassionate*

employment pending as on 29-10-2004 are to be dealt with in accordance with new Scheme."

the petitioner on making enquiries under the RTI Act has been supplied a list of sanctioned cases of employment on compassionate grounds on or after 11th April, 2004 (at page 537 of the paper book) which shows to the contrary. Attention is invited to Serial No.10 pertaining to Sh. Suresh Dilare working as Cash Peon and compassionate appointment to whose widow was allowed on 2nd November, 2004.

15. I am unable to decipher any falsehood. What has been stated in the counter affidavit is that the Scheme was circulated on 7th January, 2005. Even though the Scheme provided for the applications for compassionate appointment pending on 29th October, 2004 to be dealt with in accordance with the new Scheme but compassionate appointment to the widow of Sh. Suresh Dilare had been allowed on 2nd November, 2004 i.e. before the revised Scheme was circulated on 7th January, 2005. The petitioner at this stage states that the appointment letter to the widow of Sh. Suresh Dilare was issued only on 23rd February, 2005 and to the widow of Sh. Ashok Mehta on 25th November, 2004. However the same also does not constitute a falsehood.

16. The petitioner at this stage invites attention to the order dated 25th November, 2010 in the writ petition whereby the respondent Bank was directed to keep the records available at the time of hearing. He states that the matter should be adjourned to enable the records to be produced and for the same to be perused by him.

17. No merit is found in the said contention. It appears that the petitioner being a practicing advocate is attempting to keep these petitions hanging on the head of the respondent Bank.

18. No merit is found in the writ petition; the same is dismissed.

19. W.P.(C) No.2529/2011 has been filed impugning the order dated 28th June, 2010 of the Central Information Commission (CIC) on the complaints made by the petitioner of non-compliance of the earlier order dated 11th December, 2008 of the CIC on an appeal preferred by the petitioner and directing the PIOs to provide a list of the deceased employees in lieu of whom the applications for compassionate appointment were filed.

20. I may at this stage state that the petitioner while arguing the writ petition had invited attention to such a list furnished to him on seeking information under the RTI Act.

21. The CIC in the order dated 28th June, 2010 has recorded that the complaint of the petitioner was in fact in the nature of seeking compassionate appointment in the respondent Bank and for which relief W.P.(C) No.6611/2007 was pending before this Court. It also records that the petitioner was unnecessarily filing applications under the RTI Act not only against the respondent Bank but also against the PIOs.

22. The petitioner has argued that the list submitted is false. He further argues that the documents in support of the list were not provided. However the order dated 11th December, 2008 (supra) of the CIC was only

for providing for list/statement and no supporting document. There is also nothing to show any falsehood or any error capable of judicial review in the order dated 28th June, 2010.

23. Accordingly, W.P.(C) No. 2529/2011 is also dismissed.

24. The petitioner at this stage invites attention to page 77 of the paper book in W.P.(C) No. 2529/2011 and states that the information against queries 5 and 6 that none of the persons whose applications were pending on 29th October, 2004 had been provided employment on compassionate grounds is false.

25. This aspect has been dealt with hereinabove. As aforesaid, the application of the widow of Sh. Suresh Dilare was allowed prior to the new Scheme which was circulated on 7th January, 2005.

26. The petitioner states that the position in W.P.(C) No.4149/2011 is the same.

27. Accordingly, W.P.(C) No. 4149/2011 is also dismissed.

I refrain from imposing any costs on the petitioner.

RAJIV SAHAI ENDLAW
(JUDGE)

OCTOBER 12 , 2011
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