

Court No. - 7

Case :- WRIT - A No. - 8636 of 2023

Petitioner :- Smt. Gayatri Gupta And Another

Respondent :- President/Chairman Aryavart Bank Lko And 3 Others

Counsel for Petitioner :- Rama Kant Dixit

Counsel for Respondent :- Lalit Shukla

Hon'ble Abdul Moin,J.

Vakalatnama filed today by Shri Praveen Kumar Singh, Advocate, on behalf of respondents no. 1 to 4 is taken on record.

Heard learned counsel for the petitioners and Shri Praveen Kumar Singh, learned counsel for the respondents no. 1 to 4.

The instant writ petition has been filed praying for a writ of mandamus commanding the respondent no. 2 to provide compassionate appointment to petitioner no. 2 on a suitable post under dying in harness rules.

Learned counsel for the petitioners contends that husband of petitioner no. 1 and father of petitioner no. 1 namely Shri Ram Kumar Gupta was working as cashier in the respondent bank when he died in harness on 28.12.2009. Admittedly, there was no rules for compassionate appointment in the bank at that time.

It is contended that a scheme for compassionate appointment in the public sector banks was issued in the year 2014 which has been adopted by the bank vide its circular dated 01.04.2019, a copy of which is annexure 5 to the petition. The contention is that clause 8 of the said scheme provides application for employment under the scheme from eligible dependent should normally be considered upto five years of the date of death or retirement on medical grounds and a decision should be taken on merits on each case. However the bank can also consider request for compassionate appointment even when the death or retirement on medical ground took place long back even five years ago.

The contention of learned counsel for the petitioners is that even if there was no scheme applicable at the time of death of Shri Ram Kumar Gupta i.e. in the year 2009 yet the scheme has now been introduced and adopted by the bank with effect from 01.04.2019, as such considering clause 8 of the said scheme the claim of petitioner no. 2 for compassionate appointment should be considered by the respondents.

Having heard learned counsel for the petitioner and having

perused the record what emerges is that admittedly when the death of Shri Ram Kumar Gupta occurred in the year 2009 there was no scheme for compassionate appointment. The compassionate appointment can only be granted where there are rules or scheme for grant of compassionate appointment. Once admittedly there was no scheme at the time of death of Shri Ram Kumar Gupta there was no occasion for the respondent bank to have considered the claim of the petitioner for compassionate appointment. It is only on 01.04.2019 that the scheme for compassionate appointment has been adopted by the bank.

Once, as already indicated above, there was no scheme at the time of death of the petitioner no. 2's father for compassionate appointment, consequently the bank could not be directed to consider the claim of the petitioner for compassionate appointment.

Even as per clause 8 of the scheme it has been provided that cases upto five years before can be considered for compassionate appointment. Even if the scheme is taken at its face value and claim for compassionate appointment occurring 5 years back could also be considered which would only take the matter upto the year 2014, thus even by considering the clause 8 of the scheme the claim of the petitioner for compassionate appointment cannot be considered.

Considering the aforesaid, the writ petition is **dismissed**.

Order Date :- 7.11.2023

J.K. Dinkar