IN THE HIGH COURT OF TRIPURA
AGARTALA

WP(C)255 OF 2012

Smti Susanti Das,
wife of late Khagendra Ch. Das
(Ex – SPF No. 2705) of Village – Kajir Gaow,
P.O. Kailashahar, P.S. Kailashahar,
District : North Tripura

………………… Petitioner

– Vs –

1. United Bank of India,
   Head Office - 11, Hemanta Basu Sarani,
   Kolkata- 700001,
   (to be represented by the Chairman,
   United Bank of India, Kolkata)

2. The Executive Director,
   United Bank of India,
   Head Office – 11, Hemanta Basu Sarani,
   Kolkata – 700001

3. The Chief Manager,
   P.S.(AS) & HRMS,
   United Bank of India,
   Head Office, 11, Hemanta Basu Sarani,
   Kolkata 700001

4. The Chief Regional Manager,
   United Bank of India,
   Tripura Region, Durgabari Road,
   P.O. Agartala, P.S. West Agartala,
   District : West Tripura

5. The Manager,
   United Bank of India,
   Kailashahar Branch, P.O. Kailashahar,
   P.S. Kailashahar, District : North Tripura

……………………… Respondents

B E F O R E
THE HON'BLE MR. JUSTICE S. TALAPATRA

For the petitioner : Mr. Debasis Saha, Advocate

For the respondents : Mr. D.R. Choudhury, Advocate

Date of hearing & order : 19.08.2015

Whether fit for reporting :

Yes	No
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JUDGMENT & ORDER (ORAL)

Heard Mr. D. Saha, learned counsel appearing for the petitioner, as well as Mr. D.R. Choudhury, learned counsel appearing for the United Bank of India- respondents.

2. The grievance as canvassed in this writ petition falls within a short compass. The petitioner is the widow of Khagendra Ch. Das, a sub-staff of United Bank of India who expired on 30.03.2005 in harness. According to the petitioner, they filed a representation for compassionate appointment in favour of her elder son, namely Sri Supriya Das, but the respondent informed that the scheme of providing compassionate appointment had come to an end on 02.05.2005, after the death of Khagendra Ch. Das. They proposed that as per the new scheme the family of the deceased employee shall be entitled to an Ex-gratia lump sum

amount as per the scheme formulated by the United Bank of India, which had been circulated under reference No. PA(AS)/DIH/5492/2012 dated 12.03.2012 (Annexure-9 to the writ petition).

3. From a perusal of that scheme, the background of the scheme has come to the fore, but it is not available from which date the said scheme has come into force. However, there is no dispute that the petitioner has sought to be operated under that scheme. It is also not disputed that the petitioner filed the representation on 27.04.2005 to the respondent No.4, the General Manager, Resource Management, United Bank of India, through the respondent No.8 i.e. the Manager, United Bank of India, Kailashahar Branch, seeking Ex-gratia payment to the family of the deceased employee as the family was entitled to Ex-gratia payment of Rs.6,00,000/-(Rupees Six Lakhs) in terms of the said scheme.

4. Thereafter the petitioner made several representations and the last representation was made on 07.06.2005.

5. By making a reply on 08.03.2006, the respondent No.7, the Regional Manager, United Bank of India, Regional Office, Tripura stated that the application was returned by the Head Office of the bank as the said application was lacking in some basic

information, with further direction to submit the same after due rectification and correction for the terminal benefits.

6. Thereafter, due advice was tendered to the petitioner and after a pretty long time, another letter was received by the petitioner on 16.07.2008 which communicated that the petitioner did not submit the proper application as yet.

7. Being vexed by the entire circumstances, the petitioner had approached the Gauhati High Court which then had jurisdiction by filing a writ petition, being WP(C) No. 471 of 2010, and that petition was disposed of by the order dated 15.11.2011, observing as under :

> **"By means of this writ petition, the petitioner, who is the wife of late Khagendra Chandra Das, has prayed for a direction to the respondents to pay the ex-gratia amount of Rs.6 lakhs on account of death of her husband while was serving in the respondent bank. It appears that some correspondences had been made regarding compassionate appointment of the son of the petitioner and thereafter the bank had apprised that in lieu of such compassionate appointment, ex-gratia payment would be made as per the new scheme of the Bank.When the applications for providing the ex-gratia amounts were made, it was found that such applications had not been filed in the particular format and accordingly certain queries were also made.**
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> **In the counter affidavit, the respondents have not denied the claim of the petitioner but have stated that the bank would consider the case of the petitioner for payment of lumpsum amount**

> **of ex-gratia as per the bank's norms, subject however, to the condition that the petitioner makes appropriate representation in the prescribed format.**
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> **In the view of the above, this writ petition is disposed of providing that within 15 days from today, the petitioner shall make the required representation in the prescribed format. Upon making such representation, the respondent bank shall pass appropriate order in accordance with their policy decision and the scheme, as expeditiously as possible but at any rate not later than a month from the date of receipt of the said representation.**
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> **At this stage, Mr. Saha, learned counsel for the petitioner submits that in view of the delay caused by the respondent bank, the petitioner is entitled to receive interest on delayed payment. If any such prayer is made by the petitioner in her representation, the respondent bank may deal with the same taking into account all the attending facts and circumstances in accordance with law.**
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> **With the above directions and observations, the writ petition stands disposed of, without however, any order as to costs."**

[Emphasis supplied]

8. Before filing the writ petition, the petitioner pressed a demand notice dated 16.07.2010. By the communication dated 19.12.2011, Annexure-4 to the writ petition, the United Bank of India from its Regional Office issued another communication advising the petitioner to submit the documents, namely heirship certificate, F-16 of the preceding year, death certificate, gratuity and Leave Encashment Letter within 30 days from receipt of that

letter. It appears that on 31.11.2011 the petitioner submitted all those documents. On 04.01.2012 the payment order of the lump-sum ex-gratia was issued by the competent authority namely the Chief Manager, PA(AS) & HRMS Department of the United Bank of India. All these facts are not disputed by the respondents. They have submitted that the claim of interest as made by this petition is not tenable and that has been communicated to the petitioner by their communication dated 12.03.2012 which reads as under :

> **“This has reference to your letter dtd. 25.01.2012 addressed to Hon'ble Chairman of our Bank regarding the captioned matter.**
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> **In this connection, we write to inform you that the Hon'ble Court vide its judgment and order dtd. 15.11.2011 had never directed the Bank to pay interest on the ex-gratia amount, but had merely made an observation that the Bank may deal with the same taking into account all the attending facts and circumstances in accordance with law. Moreover, the Hon'ble Court did not observe any negligence/lapses on the part of the Bank for which the Bank may be penalised.**
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> **Under the aforesaid circumstances, the Competent Authority of the Bank is of the view that in the absence of any specific direction from the Hon'ble Court, the claim for payment of interest on ex-gratia amount cannot be acceded to.”**

It is apparent from that communication that unless there is a specific direction from the Hon'ble Court the claim for payment of interest for ex-gratia amount cannot be acceded to.

9. Mr. D. Saha, learned counsel has submitted that by filing the representation dated 25.01.2012 a specific claim for payment of interest was raised by the petitioner as for no lapse of the petitioner, the said payment got delayed but that claim was rejected by the said communication dated 12.03.2012.

10. Mr. Choudhury, learned counsel has submitted that the petitioner has completely misconceived the direction of the Gauhati High Court as reflected in the order dated 15.11.2012. There was no direction as such to pay interest on the ex-gratia for making delay in the payment. Mr. Choudhury has referred to the relevant part of the said order which reflects that learned counsel for the petitioner advanced the submission that for the delay caused by the respondent-bank, the petitioner was entitled to receive interest on the ex-gratia amount .The court has observed that if any such prayer is made by the petitioner in her representation, the respondent-bank might deal with the same on taking into account all the attending facts and circumstances and in accordance with law.

11. Mr. Choudhury, learned counsel therefore has submitted that in the scheme there is no provision for making payment of interest and the respondent-bank has taken on due

consideration the decision which has been communicated by the order dated 12.03.2012.

12. Having regard to all these facts, this court is constrained to observe that the lackadaisical manner in which the representation of the petitioner was considered by the bank, speaks of sheer insensitivity which has frustrated the very object of the scheme of making the lump-sum payment in lieu of the compassionate appointment. The petitioner has rightly contended that when the first representation was made on 11.05.2005 the bank respondent just slept over the representation and did not point out that some material documents were not furnished with that representation. When they advised the petitioner for rectification or for filing a fresh representation, she was not instructed that those records were required to be produced for finalisation of the claim, nor was she so asked at the time of re-submission. The petitioner who lost her husband and was in a serious disadvantageous position in managing her family, was also not in the know that those documents were to be essentially filed.

13. As such, the bank authority is liable to pay the interest. The documents were filed on 31.12.2011 and the order

for making payment was passed on 04.01.2012. Clause 10 of the scheme provides that ex-gratia amount in eligible cases will be paid within 3 months from the receipt of the application complete in all respects. Even on making specific query, this court has failed to learn from the learned counsel for the parties, when the payment was actually made. But, this court would assume that as by the order dated 04.01.2012, the remittance by transfer was proposed, no delay after 04.01.2012 had occurred. So, it is apparent though there was some amount of delay in filing the representation, but after filing of the complete petition virtually there was no delay. But for the delay from 2005 in processing, the petitioner is required to be compensated. The bank cannot shift their responsibility of obtaining the complete representation or application from the family of the deceased employee as expeditiously as practicable. Such action is conspicuous only by absence. As such, the bank respondent shall pay a sum of Rs.50,000/- to the petitioner for such delay as they were duty bound to advise the petitioner in proper time in respect of requirement of those documents as mentioned. Such payment shall be made within a period of 3(three) months from today and if not paid, that amount shall carry interest @ 12% per annum till such payment is made.

14. With the said observation and direction this writ petition is allowed to a limited extent.

There shall be no order as to costs.

JUDGE

Sabyasachi.B