

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 13TH DAY OF OCTOBER 2015/21ST ASWINA, 1937

WP(C).No. 17000 of 2003 (W)

PETITIONER:

**S. SHRIDEVI, AGED 21 YEARS
D/O. LATE C. SANTHAKUMARI, RESIDING AT MONASTRY ROAD
KOCHI-682 011.**

**BY ADVS. SRI.H.B.SHENOY
SRI.B.ASHOK SHENOY
SMT.LAKSHMI B.SHENOY**

RESPONDENTS:

- 1. CANARA BANK
REPRESENTED BY ITS GENERAL MANAGER
PERSONNEL WING, HEAD OFFICE, J.C. ROAD
BANGALORE-560 002.**
- 2. THE GENERAL MANAGER
CANARA BANK, STAFF SECTION(W)
CIRCLE OFFICE, THIRUVANANTHAPURAM.**

**BY ADVS. SRI.M.C.SEN (SR.)
SRI.M.P.SREEKRISHNAN
SMT.SHAHNA KARTHIKEYAN
SRI.M.C.SEN (SR.)
SRI.M.C.SEN,S.C. FOR CANARA BANK**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 13-10-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS :-

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|---------|---|---|
| EXT.P1 | - | COPY OF APPLICATION DATED 08.04.1994 SUBMITTED BY PETITIONER'S GRANDFATHER TO RESPONDENTS. |
| EXT.P2 | - | COPY OF LETTER NO.TSW/T-87/7075/ATR DATED 16.08.1994 ISSUED BY 1ST RESPONDENT TO PETITIONER'S GRANDFATHER. |
| EXT.P3 | - | COPY OF LETTER NO.TSW/T-87/7384/GSK DATED 29.08.1994 ISSUED BY 1ST RESPONDENT BANK TO PETITIONER'S GRANDFATHER. |
| EXT.P4 | - | COPY OF LETTER DATED 16.03.1995 SENT BY PETITIONER'S GRANDFATHER TO 1ST RESPONDENT. |
| EXT.P5 | - | COPY OF REPRESENTATION DATED 16.02.1999 SUBMITTED BY PETITIONER'S GRANDFATHER TO 1ST RESPONDENT. |
| EXT.P6 | - | COPY OF LETTER DATED 18.08.1999 SUBMITTED BY PETITIONER'S GRANDFATHER TO 1ST RESPONDENT. |
| EXT.P7 | - | COPY OF REPRESENTATION DATED 20.03.2000 SUBMITTED BY PETITIONER TO 1ST RESPONDENT. |
| EXT.P8 | - | COPY OF LETTER NO.MS/COM/APP/VKMOV/2000 DATED 28.04.2000 ISSUED BY 1ST RESPONDENT TO PETITIONER'S GRANDFATHER. |
| EXT.P9 | - | COPY OF LETTER DATED 31.05.2000 SENT BY PETITIONER'S GRANDFATHER TO 1ST RESPONDENT. |
| EXT.P10 | - | COPY OF LETTER NO.TSW/T-87/3254/SSP DATED 02.06.2001 ISSUED BY 1ST RESPONDENT TO PETITIONER. |
| EXT.P11 | - | COPY OF REPRESENTATION DATED 11.07.2001 SUBMITTED BY PETITIONER TO 2ND RESPONDENT. |
| EXT.P12 | - | COPY OF REPRESENTATION DATED 10.10.2001 SUBMITTED BY PETITIONER TO 2ND RESPONDENT. |
| EXT.P13 | - | COPY OF LETTER NO.TSW:T:87:8020:SSP DATED 10.12.2001 ISSUED BY 1ST RESPONDENT TO PETITIONER. |
| EXT.P14 | - | COPY OF REPRESENTATION DATED 22.01.2002 SUBMITTED BY PETITIONER TO 1ST RESPONDENT. |
| EXT.P15 | - | COPY OF LETTER NO.TSW/T-87:3094:SSP DATED 08.05.2002 ISSUED BY 2ND RESPONDENT TO PETITIONER. |

[CONTD...]

- EXT.P16 - COPY OF REPRESENTATION DATED 07.04.2003 SUBMITTED BY PETITIONER TO 1ST RESPONDENT.
- EXT.P17 - COPY OF LETTER NO.PWPM:426:003:HS DATED 24.04.2003 ISSUED BY 1ST RESPONDENT TO PETITIONER.
- EXT.P3 - COPY OF THE
- EXT.P4 - COPY OF THE
- EXT.P5 - COPY OF THE

RESPONDENTS' EXHIBITS:-

- EXT.R2(A) - COPY OF LETTER F.NO.18/139/95/IR DATED 07.08.1996.
- EXT.R2(B) - COPY OF THE SCHEME FOR PROVIDING EMPLOYMENT ON COMPASSIONATE GROUNDS DATED 14.02.2005.

//TRUE COPY//

P.A. TO JUDGE

sp

K. VINOD CHANDRAN, J.

W.P(C). No.17000 of 2003

Dated this the 13th day of October, 2015.

JUDGMENT

The petitioner is aggrieved with the fact that the petitioner had not been granted a compassionate appointment in the respondent Bank. When the petitioner was a minor, her mother died on 28.03.1994 in a motor vehicle accident. The petitioner had been totally dependent on her mother, since at that point of time, her parents were separated. After the death of the petitioner's mother, the petitioner was under the care of her maternal grandfather. There is also a litigation initiated by the maternal grandfather for obtaining her guardianship. Petitioner's maternal grandfather was appointed as the legal guardian of the petitioner by order dated 16.02.1999 in G.O.P No.192 of 1994. The petitioner's grandfather had, immediately after the death of

her mother, submitted an application produced at Ext.P1 dated 08.04.1994, for considering the petitioner for compassionate appointment, when she attains majority. The petitioner's father is also said to have expired in 1998, when the petitioner was still a minor.

2. The petitioner attained majority in the year 2000 and submitted Ext.P7 application, pointing out the difficulties and seeking an appointment under the scheme for compassionate appointment. Though many reminders were served, the Bank took some time to process the application and directed the petitioner to inform the Bank as to whether the claim awarded by the Motor Accidents Claims Tribunal had been received. It was also directed to inform the Bank as to whether there was any other residential property owned by the petitioner, other than the one let out, which was also constructed by availing a housing loan. The petitioner replied by Ext.P14 that, she has not received the settlement till date and that she is currently staying with her mother's younger sister. The petitioner's application however was rejected by Ext.P15, without showing any reasons. The learned

counsel for the petitioner submits that Ext.P15 is vitiated on the ground of the same disclosed no reasons under which the appointment was declared.

3. True, the order does not disclose any reason for rejecting the claim of the petitioner. However, the Counter Affidavit disclosed that it was on consideration of the financial situation of the petitioner that the claim was declined. The Counter Affidavit dated 11.02.2004 disclosed that the petitioner had obtained a total amount of Rs.2,20,636/- as gratuity and Provident Fund amounts, which were kept as deposit in the name of the petitioner, since 1994. The said amount definitely cannot be considered for declining the claim for compassionate appointment on the ground of financial stability as has been held by the Hon'ble Supreme Court in ***Canara Bank and another v. M. Mahesh Kumar [2015 STPL (LE) 50485 SC]***. However, the Counter Affidavit also discloses that the petitioner was the beneficiary of an LIC Policy, the proceeds of which amounted to Rs.1,33,207/- and also by devolution of rights obtained 260 shares in listed Companies, the total amount of which came into

Rs.67,136/-. The petitioner's mother was also found to have owned a residential flat valid at around Rupees Seven lakhs. Over and above this, the petitioner also have obtained an award of Rs.6,87,000/- lakhs as compensation for the death of her mother.

4. The learned counsel for the petitioner submits that, as is indicated in the Counter Affidavit itself, the shares were pledged for an Overdraft facility and the residential flat was also acquire by availing a housing loan. Hence, this could not have been taken into account, is the contention. However, it is pertinent that the above writ petition was pending before this Court from 2003 and as of now, a direction to grant an appointment would run contrary to the principles stated by the Hon'ble Supreme Court in ***State of Haryana and others v. Umesh Kumar and others [1995 LLJ 778]*** and reiterated consistently. The Hon'ble Supreme Court has declared unequivocally that the benefit of compassionate appointment is an exception to the general Rule of equality in public employment. The need arising out the death of the bread-winner at the time of the death is what assumes

significance. It is also pertinent that the petitioner is unable to place before this Court the present circumstances of the petitioner. Even accepting the contention of the learned counsel for the petitioner, the fact remains that the petitioner obtained a substantial award as amount of compensation for the death of her mother and also had residential flat, which was let out and the benefit of insurance policies as also shares held by her mother. The petitioner in fact ought to have placed before this Court the exact liability on the death of her mother to convince this Court as the assets left behind by her mother would not in fact facilitate the tiding over of the situation, which arose due to the mother's death. The petitioner having not done so despite a Reply Affidavit having been filed earlier. This Court would decline the exercise of discretionary jurisdiction at this point of time, despite the fact that the order is a speaking order. Though, it is trite that the Counter Affidavit cannot supplement the lack of reasons in the order impugned, herein the petitioner has not attempted to controvert the specific averments raised recording the financial capacity. In that circumstances, this Court is of the

opinion that the remand at this stage after 15 years of the petitioner attaining majority would not serve any purpose and would be an unnecessary exercise.

In such circumstance, the writ petition would stand dismissed. No costs.

Sd/-

**K. VINOD CHANDRAN,
JUDGE**

//True Copy//

P.A. to Judge.

sp/16/10/15