

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 28TH DAY OF OCTOBER 2015/6TH KARTHIKA, 1937

WP(C).No. 21565 of 2005 (P)

PETITIONER:

**BINU V, S/O. VAMADEVAN K.,
BINDU BHAVAN, OLIPPUNADA, NARUVAMMODU P.O.
THIRUVANANTHAPURAM, PIN-695 020.**

BY ADV. SRI.AJITH KRISHNAN

RESPONDENTS:

- 1. THE STATE BANK OF TRAVANCORE,
REP. BY ITS MANAGING DIRECTOR, HEAD OFFICE, POOJAPPURA
TRIVANDRUM.**
- 2. BRANCH MANAGER,
STATE BANK OF TRAVANCORE, PRAVACHAMBALAM, TRIVANDRUM.**

BY ADV. SRI.P.RAMAKRISHNAN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 28-10-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS

- P1 : TRUE COPY OF THE DEATH CERTIFICATE ISSUED BY THE REGISTRAR OF BIRTHS AND DEATHS OF THE FATHER OF THE PETITIONER
- P2 : TRUE COPY OF THE DETAILS OF THE LOANS OUTSTANDING IN THE NAME OF THE DECEASED FATHER OF THE PETITIONER
- P3 : TRUE COPY OF THE DECISION OF 1ST RESPONDENT BANK COMMUNICATED BY THE 2NDRESPONDENT BANK TO THE PETITIONER VIDE LETTER DATED 16.7.2001
- P4 : TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE MOTHER OF THE PETITIONER DATED 24.7.2001 BEFORE THE 1ST RESPONDENT
- P5 : TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE MOTHER OF THE PETITIONER DATED 18.2.2002 BEFORE THE 1ST RESPONDENT
- P6 : TRUE COPY OF THE REPRESENTATION DATED 9.12.2002 SUBMITTED BY THE MOTHER OF THE PETITIONER BEFORE THE 1ST RESPONDENT

RESPONDENT'S EXHIBITS

- R1(A) : TRUE COPY OF THE SCHEME FOR APPOINTMENT ON COMPASSIONATE GROUNDS

//TRUE COPY//

P.A. TO JUDGE

JJJ

K. VINOD CHANDRAN, J.

W.P.(C) No. 21565 of 2005 (P)

Dated this the 28th day of October, 2015

J U D G M E N T

The petitioner seeks compassionate appointment in the respondent Bank. The petitioner's father, who was a record keeper in the 2nd respondent Branch of the 1st respondent Bank, died on 14.9.1999.

2. The petitioner claims that the deceased father of the petitioner left behind the petitioner, his mother, sister and grandmother. It was contended that though Rs.4 lakhs was received towards the terminal benefits of the deceased father, the outstanding liability was about Rs.4,36,000/-. In any event, application was made for compassionate appointment within time, which was rejected by Ext.P3 on 16.7.2001.

3. It is to be noticed that the petitioner's father died in the year 1999 and an application is said to have been made within time. Nothing was done for two years when

the rejection order was issued at Ext.P3 dated 16.7.2001. Even after that the petitioner rested contend with making representations and approached this Court with a delay of more than four years seeking compassionate appointment. The reason for rejection of appointment was on the ground that the financial condition of the family of the petitioner did not warrant such an appointment.

4. A Full Bench of this Court in **Bharat Sanchar Nigam Limited v. Rajesh - 2015 (2) KLT 478** had considered the entire decisions of this Court and the Hon'ble Supreme Court with respect to compassionate appointments and held that none has a vested right to get such appointment, which, in fact, works against the provisions of equality which is mandatory in the case of public employment. The delay caused in making an application or in approaching the Court was held to be fatal insofar as the very principle on which compassionate appointments are granted is to enable the bereaved family

to tide over the loss of livelihood caused by the sudden death of the sole bread winner.

5. Further, in considering the grant of compassionate appointment, as has been stated by the Bank in its counter affidavit, the financial condition of the bereaved family is a relevant factor. The contention that the petitioner's father had a liability of more than Rs.4,36,000/- has been specifically denied by the Bank and it is also averred that any such liability could not have been incurred by the deceased employee without the concurrence of the employer Bank. The contention that the petitioner's mother was sanctioned Family Pension and the family had received the entire retirement benefits, which, even according to the petitioner, was around Rs.4 lakhs, may not be a compelling factor unless the scheme specifically provides for taking into account such financial aspects.

6. In any event, the delay stands against the consideration of the compassionate application especially at this stage when long years have passed after the death of the employee. Any consideration, directed at this point, would violate the principles of equality, since, otherwise, that particular employment ought to be made from the general public to one entitled to the same. The various precedents also caution the authorities in granting appointments at a point very distant from the death of the employee, since then the imminent need to overcome the hardship caused by the bereavement, which is the rationale behind such exception, is no more there.

For all the above reasons, the writ petition would stand dismissed.

Sd/-
K.VINOD CHANDRAN,
JUDGE