

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Regular Second Appeal No.3148 of 2014 (O&M)

Date of decision: **11**.09.2015

Ramesh Kumar

... Appellant

versus

Bank of Baroda, Suraj Plaza-I, Sayajigung Baroda, and others.

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Brijeshwar Singh, Advocate,
for Mr. Onkar Singh Batalvi, Advocate,
for the appellant.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ?No.
3. Whether the judgment should be reported in the digest ?No.

K.Kannan, J.

1. The plaintiff whose suit for compassionate appointment was dismissed by the two courts below is the appellant before this court. The suit had been filed on a plea that his mother who was working as sweeper in defendant bank against a permanent post died in harness on 06.04.2001. The plaintiff claimed that he had moved an application to the defendant bank for appointment as a clerk or to any suitable post on priority basis. The defendant replied on 20.05.2002 denying to him any such appointment. At the trial, the

defendant contended that the plaintiff's mother was not posted on permanent basis. She was a part-time employee posted against a regular post. There was no provision for appointment on priority basis in the office of the bank. The revised scheme of the bank for recruitment of dependents of the deceased employees on compassionate grounds did not authorise an appointment to a case such as the plaintiff. The bank referred to a circular No.90/242, dated 18.06.1988 that the total family income of the income of the deceased from all sources should not exceed 60% of the last drawn salary of the deceased, if the benefit of the scheme for compassionate appointment was to be applied. An amount of ₹ 88,236/- was paid to the legal representatives of the deceased after adjusting loans etc.

2. The trial court accepted the defence and dismissed the plaintiff's suit. The appellate court confirmed the same. The trial court had found that compassionate appointment itself could not be enforced other than under the terms of the scheme providing for such employment and if the plaintiff did not qualify for such appointment, there was no scope for a mandatory relief in the manner sought for by the plaintiff to be given by the court. It also referred to decisions of the Supreme Court setting out the law that compassionate appointment could not be given other than under the strict application of the relevant rules. The court was actually

adverting to the fact that the plaintiff's father was having an income of ₹2,100/-, his brother Mukesh Kumar was having income of Rs. 2000 and his another brother Rajesh was having income of ₹1,500/-. It was seen from the perusal of records that the last drawn salary of the deceased came to be ₹3,799/- and if 60% of the same was to be reckoned, it was ₹2,280 the family income of the plaintiff including the pension received by the family worked out to ₹8,642.80 which was more than 60% of the last drawn salary of the deceased. If amount of pension and interest were to be excluded, even then the salary of the family of the deceased worked out to more than 60% of the last drawn salary.

3. I do not think any important point has been missed by the 2 courts below. I must observe that compassionate appointment itself is a deviation from Article 14 of the Constitution and if it were to be applied it has to be strictly in conformity with the scheme that provides for the same. There is no way by which any breach of the terms of the scheme could be tolerated. The idea is to relieve the family in distress by the death of a person suddenly and if in this case the death had taken place more than a decade, there is simply no scope for giving compassionate appointment. It is another way of reckoning that the plaintiff must have learnt to carry on with life without any assistance from the bank from which he was seeking for compassionate appointment.

4. There is no merit in the second appeal and I find no substantial question of law as arising for consideration. The second appeal was dismissed.

(K.KANNAN)
JUDGE

11.09.2015

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