

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.2666/2012

Rekha wd/o Amrut Bokade and another

...Versus...

The Manager, Panjab National Bank, New Delhi and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri P.N. Shende, Advocate for petitioners
Shri J.L. Bhoot, Advocate for respondents

CORAM : SMT. VASANTI A. NAIK AND
MRS. SWAPNA JOSHI, JJ.

DATE : 27.06.2016

By this petition, the petitioners seek a direction against the respondents to grant employment to the petitioner no.2 on compassionate ground. The petitioners have sought a direction against the respondents to grant *ex gratia* payment to the petitioners.

On the previous date of hearing, the learned Counsel for the petitioners had given up the prayer for compassionate appointment and had restricted the petition only in respect of the prayer for granting *ex gratia* payment in favour of the petitioners.

The husband of the petitioner no.1 and the father of the petitioner no.2 was working with the respondent no.1 – Bank. He expired on 9.7.2008. After the death of the husband of the petitioner no.1, the petitioner no.1 had made an application to the respondents for grant of *ex gratia* payment. The said

application appears to have been rejected by the respondent – Bank on 11.10.2008. However, the petitioner no.1 continued to approach the Bank, seeking the said relief and the Bank rejected the representations of the petitioner no.1 in 2011 and the last representation was rejected on 17.11.2011. The petitioners have approached this Court seeking a direction against the respondent – Bank to grant *ex gratia* payment in favour of the petitioner no.1.

For seeking the aforesaid relief, the petitioners have relied on the revised scheme for payment of *ex gratia* – lump sum amount. The petitioners have relied on Clauses 4 and 7 of the said scheme. It is the case of the petitioners that as per Clause 7 of the scheme, the sanction of *ex gratia* is subject to the ceiling of Rs.6,00,000/- in the case of sub-staff, to which the husband of the petitioner no.1 belongs. It is stated that *ex gratia* payment could be granted, if the monthly income of the family from all sources of the employee is less than 60% of the last drawn salary of the concerned employee. It is stated that the monthly income of the petitioners from all sources is less than 60% of the last drawn gross salary of the husband of the petitioner no.1 and hence, the petitioners are entitled to *ex gratia* payment.

On hearing the learned Counsel for the parties and on a perusal of the affidavit-in-reply filed on behalf of the Bank, specially paragraph no.6 thereof, we find that the *ex gratia* payment cannot be granted to the petitioners. We find from the chart in paragraph no.6 of the reply that the monthly income of the petitioners from all sources is more than 60% of the last drawn salary of the husband of the petitioner no.1. The gross monthly salary of the husband of the petitioner no.1 was

Rs.12,674/- and total monthly income of the petitioner no.1 from all sources is Rs.9,160/-. Rs.9,160/- would be more than 60% of the amount, that was last drawn by the husband of the petitioner no.1 towards the salary. We find that the petitioner no.1 had received a net amount of Rs.2,83,336/- towards the terminal dues, she has invested certain other amounts to the extent of Rs.2,94,941/- and the petitioner no.1 is receiving a monthly family pension of Rs.4,823/-. Hence, the monthly interest on the terminal benefits and the other savings and the family pension i.e. payable to the petitioner no.1 exceeds 60% of the salary, that was last drawn by the husband of the petitioner no.1. Also, we find that there is a gross delay in approaching this Court. The first application made by the petitioner no.1 for grant of *ex gratia* payment was rejected on 11.10.2008. Instead of approaching the Court immediately, the petitioner no.1 again made representations to the respondent – Bank. The petitioner has filed the writ petition after the last such representation was rejected on 17.11.2011. Mere making of successive representations would not stop the period of limitation, which would continue to run from the rejection of the first representation.

Hence, for the reasons aforesaid, the writ petition is dismissed with no order as to costs.

JUDGE

JUDGE