



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.12.2016

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THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P.(MD) No.23998 of 2016

and

WMP(MD)No.17312 of 2016

R.Ananthi

... Petitioner

-vs-

1. Indian Overseas Bank,
Rep. by its Chief Manager,
Personnel Administration Department,
Central Office, Anna Salai,
Chennai-600 002.

2. The Chief Manager,
Indian Overseas Bank,
Chithampara Nagar,
Thoothukudi District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records, relating to the impugned order issued by the 1st respondent in Letter No.PAD/178/CL(T) dated 28.09.2016 and quash the same and consequently direct the Respondents to provide compassionate appointment to the petitioner as per the application submitted by her and within a time frame to be fixed by this Hon'ble Court.

For Petitioner : Mr.G.Sankaran

For Respondents : Mr.N.Dilip Kumar

O R D E R

This petition has been filed, seeking to quash the impugned order of the 1st respondent dated 28.09.2016 in Letter No.PAD/178/CL(T), vide which, it was informed that there was no scheme for compassionate appointment and the petitioner's request for payment of exgratia amount was also declined in view of the fact that the total monthly income of the family was more than 60% of the last drawn salary of the deceased. The said order is under challenge in this writ petition.

2. The case of the petitioner is that she is the daughter of one R.Mani, who was employed as Messenger in the Regional Office at



Thoothukudi Branch and her mother died on 09.08.2010, owing to which, the petitioner made a representation for compassionate appointment. The request of the petitioner for compassionate appointment was rejected on the ground stated supra.

3. Learned counsel for the respondents has contended that the petitioner has projected as if her request was rejected for the first time and on earlier occasion also, the order of rejection has been issued, which has been intimated to the petitioner vide communication dated 23.05.2011. Once the issue has attained finality, making representation one after other and seeking indulgence of the Court cannot be entertained by this Court and the writ petition has to be dismissed at the threshold. He has further contended that the scheme of compassionate appointment was not in existence on the date of demise of the petitioner's mother.

4. The petitioner drew the attention of this Court to the Office Memorandum of the Department of Personal and Training dated 25.03.2013, wherein circulars have been issued to all Ministries / Departments of Government of India to ensure uniform application of the appointment on compassionate grounds or ex-gratia in lieu thereof.

5. From the reading of Office Memorandum, it appears that applications for compassionate appointments need to be prepared annually and submitted in order to ascertain the status of compassionate appointment in public sector units / banks / insurance companies, autonomous bodies etc. Office Memorandum is not a direction or a scheme, which enables a person/ dependant / legal heir of the deceased to seek for compassionate appointment. The Hon'ble Supreme Court in the case of State Bank of India and another vs. Raj Kumar, reported in (2010) 11 SCC 661, has held that power is vested with the employer to abolish / modify the scheme and the compassionate appointment is traceable only to specific scheme framed by the employer thereof and there is no right whatsoever outside such scheme to claim compassionate appointment by anyone. The Hon'ble Supreme Court further held that compassionate appointment is a concession and not a right and the employer may wind up or modify the scheme at any time, depending upon its policies, financial capacity and availability of posts.

6. I also had an occasion to deal with the issue of compassionate appointment in the case of [R.Kanagasanthi vs. Tamil Nadu Civil Supplies Corporation, Chennai and another] reported in 2014 (1) LLN 515 (Mad.), wherein the employee died, when the old scheme was in existence and the application for compassionate appointment was also made in time during prevalence of old scheme and therefore, based on the judgment of the Apex Court, respondents therein were directed to consider the case for appointment.



7. In the case on hand, it is admitted that no scheme was prevalent at the time of death of the petitioner's mother and the Office Memorandum dated 25.03.2013, relied on by the petitioner has no relevancy to the facts of the case, as it is merely a circular sent by the Government of India to its Ministries / Departments to streamline the appointment on compassionate appointment. Therefore, I find no merits in the writ petition and the same is liable to be dismissed.

In the result, this Writ Petition is dismissed as devoid of merits. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(writ)

/True Copy/

Sub Assistant Registrar

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To:

1. The Chief Manager
Indian Overseas Bank,
Personnel Administration Department,
Central Office, Anna Salai,
Chennai-600 002.
2. The Chief Manager,
Indian Overseas Bank,
Chithampara Nagar,
Thoothukudi District.

+1cc to Mr.T.Chandrasekaran Advocate Sr.No.81146

+1cc to Mr.N.Dilip Kumar Advocate Sr.No.80982

JAM/02.02.2017/RR-BS/3P-5C

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