IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.649 of 2017
IN
Civil Writ Jurisdiction Case No. 15532 of 2013
Along With
Interlocutory Application No.2547 of 2017

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1. The Central Bank Of India through its Chairman, Head Office, Central Bank Of India, Chander Mukhi, Nariman Point, Mumbai- 400021.
2. The General Manager, HRD, Head Office, Central Bank Of India, Chander Mukhi, Nariman Point, Mumbai- 400021.
3. The Zonal Manager, Zonal Office, Central Bank Of India, Block- B, Maurya Lok Complex, Dak Banglow Road, Patna- 800001.
4. The Senior Manager, Regional Office, Central Bank Of India, Shanti Bhawan, Rameshwar Path, Opp. Biser Tank, Gaya- 823001.
5. The Branch Manager, Harnaut Branch, Central Bank Of India, Harnaut, Nalanda.

.... Respondents-Appellant/s

Versus

Urmila Devi, Wife Of Late Ram Kishun Paswan, Resident Of Village Bishunpur, Police Station Ben, District Nalanda

.... Petitioner- Respondent/s

With

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Letters Patent Appeal No. 650 of 2017
IN
Civil Writ Jurisdiction Case No. 15617 of 2013
Along with
Interlocutory Application No.2545 of 2017

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1. The Central Bank Of India through its Chairman, Head Office, Central Bank Of India, Chander Mukhi, Nariman Point, Mumbai- 400021.
2. The General Manager, HRD, Head Office, Central Bank Of India, Chander Mukhi, Nariman Point, Mumbai- 400021.
3. The Zonal Manager, Zonal Office, Central Bank Of India, Block- B, Maurya Lok Complex, Dak Banglow Road, Patna- 800001.
4. The Senior Manager, Regional Office, Central Bank Of India, Shanti Bhawan, Rameshwar Path, Opp. Biser Tank, Gaya- 823001.
5. The Branch Manager, Harnaut Branch, Central Bank Of India, Harnaut, Nalanda.

.... Respondents- Appellant/s

Versus

Rita Kumari, Wife of Late Manoj Singh, Resident of Dak Bunglow Road, Post Office- Dak Bunglow Road, Police Station- Harnaut, District- Nalanda.

.... Petitioner- Respondent/s

With

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Letters Patent Appeal No. 651 of 2017
IN
Civil Writ Jurisdiction Case No. 15709 of 2013
Along with
Interlocutory Application No.2543 of 2017

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1. The Central Bank Of India through its Chairman, Head Office, Central Bank Of India, Chander Mukhi, Nariman Point, Mumbai- 400021
2. The General Manager, HRD, Head Office, Central Bank Of India, Chander Mukhi, Nariman Point, Mumbai- 400021
3. The Zonal Manager, Zonal Office, Central Bank Of India, Block- B, Maurya Lok Complex, Dak Banglow Road, Patna- 800001
4. The Senior Manager, Regional Office, Central Bank Of India, Shanti Bhawan, Rameshwar Path, Opp. Biser Tank, Gaya- 823001
5. The Branch Manager, Harnaut Branch, Central Bank Of India, Harnaut, Nalanda

.... Respondents-Appellant/s

Versus

Meena Devi, Wife of Late Naresh Ram, Resident of Village- Sirchanpur, Post Office and Police Station- Harnaut, District- Nalanda.

.... Petitioner-Respondent/s

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Appearance :

For the Appellant/s : Mr. Ajay Kumar Sinha, Advocate
For the Respondent/s : Mr. Siya Ram Sahi, Advocate
Mr. Sanjeev Kumar Singh, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
And
HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)
Date: 24-07-2017

The delay in filing of these Appeals is condoned.

Interlocutory Applications for condonation of delay stand allowed and disposed of.

As common question of law and facts are involved in all these three appeals filed by the Bank in question, we propose to deal with the issue and decide the same by a common order.

Respondents herein, namely Smt. Urmila Devi, Smt. Rita

Kumari, and Meena Devi are the dependants and widows of late Ram Kishun Paswan, late Manoj Singh and late Naresh Ram, respectively, who were all working with the Central Bank of India. On 4th of October, 2012, all the three employees had gone to Nawadah Branch of the Bank for the purpose of remitting Rs. 35,00,000/- to Harnaut Branch and it is stated that they were going on duty in an Ambassador Car provided by the Bank when the car was stopped in the National Highway and a robbery took place. It is stated that the robbery took place by forcing the car to stop by colliding it with the truck and thereafter when the public gathered in the place and commotion was created, the miscreants ran away. The police of Nawadah Police Station registered Muffasil P.S. Case No.147 of 2012 for offences punishable under Section 279/304A and 427 of the Indian Penal Code and on account of the sudden death of the family members, the applications were filed by each of the respondent seeking compassionate appointment and even though the Regional Office of the Bank recommended for compassionate appointment, the Head office rejected the same which resulted in filing of the writ petitions in question individually by the three respondents and the learned Writ Court on 22.04.2016 having allowed the writ petitions in part and having directed the Bank to consider the case of the petitioners in accordance to the Scheme of 2007 as well as Scheme of 2014, these three appeals by the Bank primarily on the ground that employees are not entitled to compassionate appointment. They are only entitled only *ex-gratia* payment under the scheme of 2007 and the Scheme of 2014 does not apply in their cases and, therefore, the learned Writ Court has committed an error in directing for consideration of their cases under the Scheme of 2014.

We have heard learned counsel for the parties at length and we have also gone through the detailed order passed by the learned Writ Court. A short question that arises for consideration is as to under what Scheme the case of the employees would fall. There are two schemes applicable; they are Scheme of 2007 and Scheme of 2014. The Scheme of 2007 is Annexure-4 to the writ petition. There was an amendment to the original Scheme which was incorporated and in the Circular dated 19th July, 2007 taking note of the demand raised by the employees Association, certain amendments were made in the Scheme which only provided for payment of ex-gratia in lieu of compassionate appointment. By amending the Scheme, two clauses were added in which case treating them to be exceptional it was indicated that compassionate appointment shall be granted. The two clauses which are clause (a) and (b) read as under:-

> (a) dies while performing his official duty as a result of violence, terrorism, robbery or dacoity or
>
> (b) dies within five years of his first appointment or before he reaches the age of 30 years, whichever is later, leaving a dependent spouse and/or minor children.

Thereafter, the new Scheme for compassionate appointment came into force with effect from 05.08.2014 which is annexure-7 at page 56 of the writ petition and this Scheme which was brought into force with effect from 05.08.2014 contemplates a provision for considering the claim for compassionate appointment prescribing a time limit in Clause 8 and Clause 8.1. and 8.2. of the said Scheme read as under:-

> "8.1. Application for employment under the Scheme from eligible dependent should normally be considered upto five years from the date of death or retirement on medical grounds and decision to be taken on merit in each case.
>
> 8.2. However, Bank can consider request for compassionate appointment even when the death or retirement on medical grounds of the employee took place long back, even five years ago. While considering such belated requests, it should, however, be kept in view that the concept of compassionate appointment is largely related to the need for immediate assistance to the family of the employee in order to relieve it from economic distress. The very fact that the family has been able to manage somehow all these years should normally be taken as adequate proof that the family had some dependable means of subsistence. Therefore, examination of such cases would call for a great deal of circumspection. The decision to make appointment on compassionate grounds in such cases may, therefore, be taken only at the Board level."

It was the case of the Bank before the Writ Court that as the death of the employees was on account of a road accident, it was not a case of death while performing official duty as a result of violence, terrorism, robbery or dacoity, the cases do not fall under Clause (a) of the amendment to 2007 Scheme brought into force with effect from 19th July, 2007.

We find the aforesaid submission on behalf of the Bank to be correct for the simple reason that the only available document with regard to the manner in which the death took place is the FIR lodged by the Branch Manager of the Bank, Annexure-1 to the writ petition, which goes to show that the death occurred, even though on official duty, but due to a road accident, i.e. collusion of a truck with the car in which the employees were travelling, and there being no material available on record to show that the death was a result of violence, terrorism, robbery or dacoity. We agree with the contention of the Bank that the cases are not covered under Clause (a). However, in case of the petitioner Smt. Urmila Devi in Civil Writ Jurisdiction Case No.15532 of 2013 and respondent in Letters Patent Appeal No.649 of 2017, her husband was appointed on 10.12.2007 and as he died within five years of his first appointment and before he reached the age of 30 years, his case is covered by clause (b) of Scheme 2007 and, therefore, in directing for considering the case of respondent Smt. Urmila Devi under clause (b) of the Scheme, 2007, we find no error in the order passed by the learned Writ Court.

As far as all three employees were concerned, even if their cases do not fall under Clause (a) of the Scheme, 2007, we find that their cases would fall under Clause 8.1. of the Scheme of 2014, as the incident in question took place on 04.10.2012 and their cases of employment under the Scheme has to be considered up to five years from the date of death or retirement on medical ground etc. It is the contention of the Bank before us and Sri Ajay Kumar Sinha, learned counsel appearing for the Bank, vehemently argued that the Scheme in question of the year 2014 has come into force with effect from 05.08.2014 and, therefore, only if the accident occurs after 05.08.2014, then their cases can be considered five years from the date of coming into force of the Scheme. If such a contention is accepted, then clause 8.1. would be redundant. It would not cover any case where death occurred prior to 05.08.2014. It would only apply in cases where death occurs five years after 05.08.2014. This could never be the intention of the formulator of the Scheme. The clause 8.1. of the Scheme of 2014, in our view, was introduced for granting benefit of compassionate appointment in such cases where death occurred within five years from the date of coming into force of the Scheme of 2014 and not after 05.08.2014. The learned Writ Court has also considered this aspect of the matter and has directed for considering the case of the employees under these clauses and we see no error in the same warranting reconsideration. In our considered view, the purpose of incorporating clause 8.1. in the Scheme of 2014 would only be for giving benefit of compassionate appointment in cases where death occurs five years prior to coming into force of the Scheme and if the contention advanced by the Bank is accepted, we are of the considered view that Clause 8.1. of the Scheme of 2014 need not be incorporated in the manner it has been done. Accordingly, finding no merit, we dismiss the appeals.

The respondents are directed to consider the case of the writ petitioners- respondents herein in the following manner:-

The case of Smt. Urmila Devi shall be considered under clause (b) of the Scheme of 2007 and clause 8.1. of the Scheme of 2014 and the cases of Rita Kumari and Meena Devi shall be considered under Clause 8.1. of the Scheme of 2014.

Accordingly, the appeals are dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

Sunil/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.07.2017
Transmission Date	