

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3075 of 2010

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1. Mostt. Asha Devi W/O Late Kaushal Kumar Singh R/O Vill.- Bishunpura, P.O. Gulatonganj, P.S. Muffasil Distt.- Saran
2. Mukesh Kumar Singh S/O Late Kaushal Kumar Singh Of Vill. Bishunpura, P.O. Gulatonganj, P.S. Muffasil, Distt.- Saran

.... Petitioner/s

Versus

1. State Bank Of India Through Chief Manager S.B.I., Head Office, Patna
2. The General Manager, S.B.I. Head Office, Patna
3. The Assistant General Manager Zonal Office/Region Iii, S.B.I. Muzaffarpur
4. The Assistant General Manager (Admin) S.B.I. Administrative Office, Muzaffarpur
5. The Branch Manager, S.B.I. Chapra Branch, Distt.- Saran

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rakesh Kumar Singh
Mr. Nirmala Kumari
Mr. Purnendu Nr.Singh

For the Respondent/s :

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 01-11-2017

Challenging certain provisions of a Scheme formulated by the State Bank of India in the matter of granting compassionate appointment this writ petition has been filed by the petitioners who are legal heirs of an employee, namely, Shri Late Kaushal Kumar Singh who was posted as a Guard in the State Bank of India, Chapra Branch and died in harness after suffering a road accident sometimes on 05.02.2004. It is said that after death of her husband, petitioner no.



1 his wife, claimed compassionate appointment by submitting a representation on 12.05.2004 and sought appointment of her son, namely, Mukesh Kumar Singh, petitioner no.2 herein. Even though the local branch forwarded the application for consideration, matter was pending consideration certain queries were made by communication between the Zonal Office and the Regional Office of the Bank and thereafter it is said that the claim for compassionate appointment has been rejected.

Inter alia contending that the claim of compassionate appointment should have been considered in accordance with the scheme that was in existence and it has not been properly considered with a reference to the scheme that was existing at the time of death of the employee concerned the writ petition has been filed.

Respondents have filed a detailed counter affidavit and say that the scheme in question came in force on 4th August, 2005, wherein a provision was made for grant of certain *ex gratia* payment. Based on the aforesaid scheme, claim has been settled and decided.

According to the learned counsel for the petitioners, claim should have been considered with reference to the date on which the death took place and not on the basis of the scheme which was applicable on the date of consideration.

Learned counsel for the Bank places reliance on the



judgments of the Supreme Court in the case of ***State Bank of India vs. Raj Kumar [(2010) 11 SCC 661]*** and ***Bhawani Prasad Sonkar vs. Union of India [(2011) 4 SCC 209]*** and has argued that as the claim has been considered in the light of the aforesaid principle of law no further indulgence into the matter is called for.

In the case of ***Raj Kumar*** (supra) it has been held that whereas the earlier scheme is abolished and a new scheme replaced the old one and when as provided under Clause 14 of the new scheme in question it is specifically indicated that all pending applications will be considered in terms of the new scheme, the Hon'ble Supreme Court says that it is only the new scheme that will apply and pending application is required to be considered under the new scheme. Once the Hon'ble Supreme Court with regard to the same very scheme in question which is in consideration before us after taking note of Clause 14 has held that all pending applications will have to be considered as per the new scheme the contention advanced by the petitioners cannot be accepted.

From the combined reading of the judgments of the Supreme Court as indicated hereinabove, it is clear that the claim has to be considered in accordance with the scheme existing on the date of consideration and in this case after death of the employee in the year 2004 when the claim was made in the year 2004, i.e. on



12.05.2004 and when the claim had come up for consideration after all the queries were settled the new scheme came into force on 4th August, 2005 and as the claim has been considered as per the new scheme, and as Clause 14 of the new scheme prohibits consideration as per the old scheme, we find no case is made out for any indulgence into the matter.

The writ petition is therefore dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

mrl./-

AFR/NAFR	NAFR
CAV DATE	N.A.
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