

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1608 of 2015
IN
Civil Writ Jurisdiction Case No. 2907 of 2015**

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1. Mary Prasad W/o Late Keshari Kumar Prasad R/o - C/o - Vivek Prasad, 280, Patliputra Colony, Patna - 13.

.... Appellant/s

Versus

1. Canara Bank Incorporated And Registered Under Companies Act.1956.
2. Chairman and Managing Director, Canara Bank, 110 J.C. Road, Head Office, Bangalore, Karnataka.
3. General Manager, Human Resources, Canara Bank, Luv-Kusha Tower, Exhibition Road, Patna - 1.
4. Zonal Manager, Canara Bank, Luv-Kush Tower, Exhibition Road, Patna.
5. Deputy General Manager, Canara Bank, Staff Section, Circle Office, Exhibition Road, Patna.
6. Manager, H.R.M. Section, Circle Office, Exhibition Road, Patna.
7. Branch Manager, Canara Bank , Rajwara Branch, Muzaffarpur, Bihar.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Vivek Prasad, Advocate

For the Respondent/s : Mr. Rajan Ghoshrahe, 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: 01-08-2017

Seeking exception to an order dated 19.2.2015 passed by the learned Writ Court in C.W.J.C. No.2907 of 2015, this appeal has been filed under Clause 10 of the Letters Patent.

Rejecting the claim of the petitioner for grant of *ex gratia* in lieu of compassionate appointment only on the ground that the petitioner has approached the Court after delay and even the claim



for *ex gratia* has not been placed on record by the petitioner, this appeal has been filed.

Facts, in brief, go to show that late Keshari Kumar Prasad was working in the Canara Bank and died in harness on 18.5.2006. Seeking *ex gratia* payment in lieu of compassionate appointment on account of the premature death of her husband, an application was filed by the petitioner on 1.9.2006 vide Annexure 1 and petitioner sought for consideration of her case in accordance to Circular No.35/2005. The respondents made a communication vide Annexure 2 to the petitioner on 18.2.2008 and just informed her that her claim has been rejected, however, no reason was given as to why the petitioner is not entitle to the benefit of the scheme contained in the Circular dated 14.2.2005. After rejection of her claim on 18.2.2008, the writ petition was filed in the year 2005 and the same has been rejected only because there is a delay of seven years in filing the writ petition and that the scheme has not been brought on record.

Having considered the submissions and after examining the records, we find that the petitioner, a widow, had raised the claim for *ex gratia* payment in lieu of compassionate appointment for the premature death of her husband and during the pendency of the claim, it is reported, certain scheme for family pension has also



accrued to her which is not brought on record.

Taking note of a Supreme Court judgment in the matter of applicability of the scheme in question in Civil Review No.260, 266 and 267 of 2008 (Canara Bank & Anr. Vs. M. Mahesh Kumar), it is on 10th May, 2017, we requested the learned Counsel representing the Bank to re-examine the matter of the petitioner and inform the Court whether the petitioner can be granted the benefit and, if not, explain the reason for the same. Learned counsel for the Bank has made endeavour to do so, but is unable to indicate the reasons for rejection of the claim of the appellant.

In the matter of payment of ex gratia and family pension, when it was her case that she has a large family to look after and the family was totally dependant on the earning of the deceased employee, interest of justice warranted that the matter should have been considered on merit and a decision taken. On going through the material available on record, particularly the impugned Annexure P2 dated 18.2.2008, we find that the Bank has not given any reason as to why the claim of the petitioner for grant of lump sum compensation has been rejected. The order does not show application of mind, evaluation of the claim in the backdrop of the Scheme and the reasons for its rejection. That being so, we are of the considered view that the matter should be remanded back to the



authorities for re-consideration.

Accordingly, we allow the appeal, quash the notification and issue the following directions:

On the appellant filing a certified copy of this order with all relevant record and materials available with her with regard to the employment of her husband late Keshari Kumar Prasad in the office of respondent Nos.2 and 3, the aforesaid respondents shall consider the case of the appellant, based on the petitions submitted, evaluate it in the backdrop of the policy contained in Circular No.35/2005 dated 14.2.2005 and, if required, after granting opportunity of hearing to the appellant, take a decision in the matter by a speaking order showing application of mind within a period of three months.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

K.C.jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	5.8.2017
Transmission Date	N/A

