

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9721 of 2016

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1. Sajeevan Devi @ Sanjiwani Devi W/o Late Raghubar Dayal Sharma
2. Giri S/o Late Raghubar Dayal Sharma Both Residing at Mohalla - Madhubagh,
Nawada, Near - Jain College, P.S. + P.O. Nawada, District - Bhojpur (Ara)
802301

.... Petitioners

Versus

1. The Punjab National Bank, through the Chairman Cum Managing Director, 7,
Bhikhajee Kama Place, Africa Avenue, New Delhi 110066
2. The General / Zonal Manager, Punjab National Bank, Chanakya Place, R -
Block, Birchand Patel Path, Patna 800001
3. The Regional Manager, Punjab National Bank, 2nd Floor, Hotel Regal Complex,
East Ramna Road, Arrah, Distict Bhojpur - 802301
4. The Sr. Branch Manager, Punjab National Bank, Chowk, Arrah, Bhojpur 802301

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Chiranjiva Ranjan, Adv.
For the Respondent/s : Mr. Mahesh Narain Parbat, Sr.Adv.
Mr. Ved Prakash, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 10-07-2017

Heard Mr. Chiranjiva Ranjan, learned counsel appearing for
the petitioners and Mr. Mahesh Narain Parbat, learned Senior
Counsel, appearing for Punjab National Bank alongwith Mr. Ved
Prakash, Advocate on record.

The petitioners pray for issuance of a writ in the nature of
mandamus commanding the authorities of the respondent Punjab
National Bank for appointing petitioner no.2 on compassionate
grounds.

The facts on records transpire that the husband of petitioner
no.1 and the father of petitioner no.2 was appointed as a Clerk with
the Universal Bank of India which in the year 1967 got amalgamated
with Punjab National Bank and whereupon he became the employee



of the Punjab National Bank. While the said employee was posted as Assistant Manager that he was compulsorily retired with effect from 31.1.1998 although in normal course he would have superannuated with effect from 31.3.2002. The employee concerned died on 17.6.1998 with no challenge to the order of compulsory retirement. It is about one year after the death of the Bank employee that the widow approached this Court in C.W.J.C.No. 8535/1999 praying for the following reliefs:

- "(i) The retirement letter dated 31.1.1998 (Annexure 1) be quashed.
- (ii) The respondent Punjab National Bank be commanded to correct the date of birth of husband of the petitioner as per entries made in the matriculation certificate and the entries made in the records of erstwhile Universal Bank of India as also entries made in gradation list of the seniority list of officials in the Junior Management Grade Scale I as on 1.1.1996.
- (iii) This Hon'ble Court be pleased to held that the husband of the petitioner was entitled to continue in service till 31.3.2002.
- (iv) The Respondent Bank be commanded to extend the petitioner all consequential benefits arising thereof and the petitioner be extended any other relief or reliefs for which she is entitled."

The petitioner no.1 while praying for quashing of the order of compulsory retirement dated 31.1.1998 and seeking a direction that



the petitioner's husband was entitled to continue in service until his date of retirement, also prayed for consequential benefits arising therefrom. The writ petition was allowed vide judgment and order dated 19.5.2015 holding the order of compulsory retirement unsustainable which was accordingly quashed and a direction was issued to the respondent Bank to make payment of salary admissible to the husband of the petitioner to which he would have been found entitled until his death, after adjusting the pension, if any.

On failure of the Bank to ensure compliance that a contempt application was filed on behalf of petitioner no.1 bearing M.J.C.No. 2019/2016 which was heard by the Bench and dismissed on 18.5.2016 upholding the stand of the respondents that the order was confirmed. The petitioner no.1 thereafter filed a civil review application bearing Civil Review No. 281/2016 seeking a modification of the judgment passed on the writ petition and paragraph 6(f) of the review petition reflects that a prayer was made for grant of compassionate appointment. The Review Bench taking note of the typographical error occurring in the judgment apparent on the face of record, allowed the review application to that extent but rejected the claim of the petitioner for grant of compassionate appointment as a consequential relief. The review application was disposed of vide judgment and order passed on 31.8.2016. It is thereafter that the present writ petition has been filed drawing a second round contest.



It is not in dispute that petitioner no.1 had approached this Court at a stage when her husband had already expired and thus, the issue of compassionate appointment was much available to her in the earlier round of proceedings.

Mr. Ranjan, learned counsel appearing on behalf of the petitioners, while attempting to distinguish the matter and to support the claim raised herein would submit that the consequential relief so prayed in the earlier round of litigation would include the relief of grant of compassionate appointment and once the order of compulsory retirement put to question was quashed by the Writ Court, the dependants were entitled to claim compassionate appointment because the death was in harness. He further submits that since the petitioner no.2 i.e. the son of late employee, was not a party to the earlier round of litigation, the present writ would be maintainable.

Mr. Parbat, learned Senior Counsel, appearing for the Bank has opposed the writ petition on grounds of res judicata and in view of the earlier order passed closing the issue. He further submits that petitioner no.2 has also become over age by passage of time and in fact he has chosen to approach this Court after expiry of age.

I have heard learned counsel for the parties and have perused the records.

The records in the earlier round of litigation arising from C.W.J.C.No. 8535/1999 would transpire that the petitioner no.1 while



praying for quashing of the order of compulsory retirement, also prayed for a declaration of continuation of her late husband until his normal tenure while also praying for consequential relief. The issue thus raised herein was much open in the earlier round and indeed was also raised by the petitioner before the Bench albeit by way of a review application. The Writ Court has taken note of the grievance so raised by petitioner no.1 for grant of compassionate appointment even if by way of review application and has rejected the same holding the prayer as misconceived. In such circumstances, in my opinion, the remedy for the petitioner would lie in an appropriate proceeding arising from the earlier round litigation before the appropriate forum but certainly the order on the review petition cannot be a basis for a second round litigation.

It is thus open for the petitioners to seek lawful remedy so available to them, but in the circumstances discussed, the present writ petition is held not maintainable and is disposed of accordingly.

(Jyoti Saran, J)

Surendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26.07.2017
Transmission Date	NA

