

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4708 of 2016

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Chintamani Devi, wife of late Sachchidanand Singh, C/O Suman Kumar Singh, resident of Mohalla-Bhawani Nagar, P.S. Muzaffarpur Sadar, District-Muzaffarpur.

.... Petitioner/s

Versus

1. Canara Bank through the Chairman-cum-Managing Director, Head Office, Bangalore.
2. The Chairman-cum-Managing Director, Canara Bank, Head Office, Bangalore.
3. The General Manager, Canara Bank, 3rd Floor, Lav Kush Tower, Exhibition Road Patna.
4. The Manager, H.R.M. Section, Canara Bank, 3rd Floor, Lav Kush Tower, Exhibition Road Patna.
5. The Manager, State Section (Workman), Circle Office, Canara Bank, 3rd Floor Tower, Exhibition Road Patna.
6. The Assistant General Manager, Circle Office, Canara Bank 3rd Floor, Lav Kush Tower, Exhibition Road Patna.
7. The Manager, Canara Bank, Currency Chest, Muzaffarpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vijay Kumar Singh

For the Respondent/s : Mr. Satya Prakashtripathy

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

5 13-10-2017 Heard learned counsel for the petitioner and counsel appearing on behalf of the respondent-bank.

The grievance of the petitioner in the instant case is with regard to payment of ex-gratia and non-consideration of the case of the son of the petitioner for grant of compassionate appointment in view of the fact that the husband of the petitioner died in harness while working as armed guard in the respondent-bank.

From the pleading of the parties, it appears that



respondents have raised two fold objections, (i) ex-gratia is not as a matter of right but as a discretion and the petitioner cannot claim ex-gratia as a matter of course, (ii) petitioner was asked to file affidavit as to the fact that her son was unemployed at the relevant period.

This court does not appreciate the stand of the bank that grant of ex-gratia is the sole discretion of the Bank. The discretion does not mean that the bank can take a decision arbitrarily whether the bank will grant ex-gratia or not. The Apex Court has occasion to comment in R.D. Setty's case (A1979 S.C. 1628) that the State, or instrumentalities of the State cannot act arbitrarily. The Supreme Court has held out in so many words that State of its instrumentalities cannot make a pick and choose distribution of largess and bounty. Hence the bank has to decide the claim of ex-gratia on objective consideration and not in whimsical and arbitrary manner. The court does not find any substance on the stand taken by the Bank in the counter affidavit that it is the discretion of the bank to grant ex-gratia and petitioner cannot claim as a matter of right. It has been settled long back that the public authority to proposes its conduct to be judged by professed norms and standard are obliged to take decision in accordance with those norms and it can depart from the such



norms only at the point of invalidation. In view of the above the court does not appreciate attitude of the bank objecting claim of payment of ex-gratia saying that it cannot be claimed as a matter of course.

So far as the second objection raised by the bank is concerned, the counsel for the petitioner submits that he has never received any communication for filing of such affidavit and he submits that son of the petitioner was unemployed and in that view of the matter he submits that the petitioner is ready even today to file affidavit in support of her claim that her son was/is unemployed and if the hardship is to be considered by the bank for grant of ex-gratia they have to consider hardship faced by the family in view of the fact that whatever post-retiral or terminal dues was payable to the petitioner it was admitted towards advance received by the deceased employee and in that view of the matter the family is facing hardship which is also admitted by the respondents in the counter affidavit.

Considering the aforesaid facts and circumstances, the writ petition is disposed of with liberty to the petitioner to file specific affidavit that the son of the petitioner is unemployed and raise claim for payment of ex-gratia before the respondent no.4.

It is expected that respondent no.4 will consider the



case of the petitioner for grant of ex-gratia sympathetically and he will forward the same to the respondent no.3 for the needful.

It is expected that respondent no.3 will consider the case of the petitioner sympathetically and will not insist on technicalities one or the other while considering grant of benefit of ex-gratia, if such representation is filed within a period of one month from today, the respondent no.4 will forward the same to the respondent no.3 within a further period of 15 days from the date of receipt of such representation and the respondent no.3 will take final decision within a period of two months and ensure that the benefit of such decision reaches the petitioner immediately thereafter.

With the aforesaid the writ petition stands disposed of

(Anil Kumar Upadhyay, J)

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