

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DELIVERED ON: 30.06.2017

Coram:

The Honourable Mr. Justice HULUVADI G. RAMESH
&
The Honourable Mr. Justice A.D. JAGADISH CHANDIRA

W.A. No. 671 of 2017

1. The Chief General Manager
State Bank of India,
Chennai Local Head Office, "Circletop House",
16, College Lane, Nungambakkam,
Chennai - 600 006.
2. Assistant General Manager (HR)
HR Department, LHO,
State Bank of India,
Chennai Local Head Office, "Circletop House",
P.O. No.737, 16, College lane,
Chennai - 600 006
3. The Deputy General Manager,
(Personnel and HR)
State Bank of India,
Zonal Office,
No.86, Rajaji Salai,
Chennai - 600 001

... Appellants/Respondents

Vs.

M. Santhosh

... Respondent/Petitioner

Prayer: Writ Appeal filed under clause 15 of the Letters Patent against the order dated 22.12.2016 made in W.P. No.24499 of 2014 on the file of this Court.

WP.No.24499 of 2014: This Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, Calling for the records relating to the order of the 2nd respondent dated 6.8.2014 rejecting the petitioner claim for compassionate appointment and also rejecting his claim for Ex-gratia compensation in terms of the new scheme

introduced on 4.8.2005 to quash the same and consequently direct the respondents to give compassionate appointment to the petitioner taking into account of demise of his father T.Munusamy Armed Guard in respect of bank.

For Appellants : Mr. S. Ravindran, Senior Counsel
for Mr. S.Bazeer Ahamed

For Respondent : Mr. N.G.R. Prasad
for M/s.Row & Reddy

JUDGMENT

(Judgment of the Court was delivered by A.D.JAGADISH CHANDIRA, J)

This writ appeal has been filed by the appellants/respondents Bank against the order of the learned Single Judge dated 22.12.2016, quashing the order of the 2nd appellant/2nd respondent dated 06.08.2014 and directing the appellants/respondents to consider the application of the respondent/petitioner dated 16.02.2001 for compassionate appointment under 1997 scheme i.e, " Scheme for Appointment on Compassionate Grounds for Dependants of the Deceased Employee/Employees retired on medical grounds" and further directing the appellants/respondents to provide compassionate appointment to the respondent/petitioner within a period of eight weeks from the date of receipt of a copy of that order.

2. The facts leading to the filing of the appeal are hereunder:

The scheme for appointment on compassionate ground i.e, " Scheme for Appointment on Compassionate Grounds for Dependants of the Deceased Employee/Employees retired on medical grounds" was introduced by the appellants/respondents Bank on 01.01.1997. The respondent's/Writ petitioner's father Late. Munusamy was employed as an Armed Guard in Thiruvannamalai Branch of the appellants/respondents Bank and he expired on 08.09.2000 while he was in service, having completed unblemished service of 14 years. Immediately after the demise of his father, the respondent/petitioner had made an application for

Compassionate appointment to the Bank on 16.02.2001.

3. Though the respondent/petitioner had filed the application seeking for Compassionate appointment on 16.02.2001, series of intra-bank correspondences were exchanged between the officers of the appellants/respondents Bank for a period of four years with regard to details of the employment and other financial details of the family of the deceased employee. In fact, by letter dated 30.09.2004, the Chief Manager of the Bank, Thiruvannamalai Branch, had informed that two sons of the deceased were unemployed and they were struggling for day-to-day life itself. Even after that, the application of the respondent/petitioner was not considered. Meanwhile, the appellants/respondents Bank introduced a new scheme called "Scheme for payment of Ex-gratia Lump sum amount in lieu of appointment on compassionate grounds in State Bank of India on 04.08.2005". Clause 14 of the New Scheme reads as follows:

"The Scheme will come into force with effect from the date it is approved by the Executive Committee of the Central Board and applications pending under the Compassionate Appointment Scheme as on the date on which this new Scheme is approved by the Executive Committee of the Central Board will be dealt with in accordance with the new scheme for payment of Ex-gratia lump sum amount, provided they fulfil all the terms and conditions of this Scheme".

4. As per the respondent/petitioner, till September 2005, whenever he had approached the appellants/respondents Bank, he was informed that the application was under process. Only on 17.10.2005, he was served with a letter from the third appellant/third respondent stating that all the pending applications for Compassionate appointment as on that date would be dealt with under the new scheme of payment of Ex-gratia, provided the applicants fulfill the terms and conditions of that scheme.

5. The respondent/petitioner had sent a reply dated 01.12.2005 stating that he was keen only on compassionate appointment and not on cash compensation. Thereafter, the respondent/petitioner did not hear anything from the bank. On

07.11.2013 and 06.12.2013, the respondent's/petitioner's mother had sent applications seeking compassionate appointment for her son to the Bank. While so, on 27.12.2013, the second appellant/second respondent, the Assistant General Manager (HR) of the Bank had sent a letter stating that the scheme for compassionate appointment had been discontinued as per directives of the Government of India and that no further communication, in this regard, would be entertained. Thereafter, the respondent/petitioner had collected more details through the Union and he came to understand that there had been a lot of intra-office correspondences with regard to consideration of the application of the respondent/petitioner for compassionate appointment between the years 2001 to 2005. Mean while, the respondent/petitioner had also sent application under RTI Act. seeking information with regard to consideration of the application for compassionate appointment during the period between 2001 and 2005. By reply dated 26.06.2014, the Bank had stated that the Compassionate appointments were given to 101 persons, whereas 67 applications were rejected during the period between January 2001 to July 2005. While this is so, the 2nd appellant/2nd respondent by letter dated 06.08.2014 had informed that the request for compassionate appointment cannot be considered in view of the new scheme. No reasons were stated for rejection of respondent's/petitioner's application which was pending from the year 2001 till the rejection of it in the year 2005 due to the introduction of the new scheme. Therefore, the petitioner had filed the writ petition seeking to quash the letter dated 06.08.2014 of the respondent and sought for appointment on Compassionate ground.

6. Before the Learned Single Judge it had been contended by the learned counsel for the respondent/petitioner that the respondent/petitioner had sent the application much before introduction of the new scheme and his claim ought to have been considered under the old scheme. In support of this contention, the learned counsel for the respondent/petitioner relying upon the judgment of the Hon'ble Supreme Court in the case of CANARA BANK AND ANOTHER Vs. M. MAHESH KUMAR reported in 2015 (2) LLN 545 (SC), wherein the Hon'ble Supreme Court in an identical circumstances had directed the Bank therein to consider the claim of the family members of the deceased employee for compassionate appointment in accordance with the old scheme, had pressed for the relief sought in the writ petition.

7. The appellants/respondents had filed a detailed counter affidavit stating that the Bank earlier introduced the

scheme for appointment on compassionate grounds for the dependants of the deceased employee/employees retired on medical grounds and that the said scheme was modified and amended from time to time and the last amendment or modification was made on 24.01.2003 and the object behind the scheme was to enable the family to tide over the sudden crisis due to the death of the sole breadwinner. Hence, the appellants had submitted that the mere death of an employee in harness does not automatically entitle his family to get compassionate appointment and only when the Bank is satisfied with the financial status of the family of the deceased, the claim for compassionate appointment would be considered.

8. Further, the appellants/respondents had relied on Clause 10 of the old scheme which provided for the factors to be taken into account for determining the financial condition of the family. Further, as per Clause 12 of the old scheme, the appointment under the scheme would be considered subject to availability of the vacancy and Clause 13 of the old scheme provided for applicants themselves for the interview and thereafter, the selected candidates should undergo medical fitness and thereby no person could claim compassionate appointment as a matter of right and as a matter of course as compassionate appointment is subjected to various criteria and norms provided in the scheme.

9. Further the learned counsel appearing for the appellants/respondents Bank had contended that the respondent/petitioner's father died on 08.09.2000 and the application seeking compassionate appointment was submitted on 16.02.2001, which was the subject matter of the correspondences between the Zonal Office and the Thiruvannamalai Branch of the appellants/respondents Bank. In the meanwhile, the appellants/respondents Bank has devised a scheme namely "Scheme for payment of Ex-gratia Lumpsum in lieu of Appointment on Compassionate Grounds" with effect from 04.08.2005, in which, as per Clause 11 of the new scheme, "the payment of the Ex-gratia compensation would be considered provided a request made in writing on the prescribed application format by the dependant within a period of six months from the death of the employee" and Clause 14 of the new scheme provides that the applications pending under the compassionate appointment scheme, as on date, on which new scheme is approved by the Executive Committee of the Central Board would be dealt with in accordance with new scheme for payment of Ex-gratia lumpsum. Thus, according to the appellants/respondents bank, the claim of the respondent/petitioner could not be considered under the old scheme and he could not be provided with compassionate

appointment and further submitted that the claim of the respondent/petitioner for compassionate appointment was rightly rejected.

10. In support of the above contentions, the learned counsel for the appellants/respondents had relied upon the judgements of the Hon'ble Supreme Court reported in (2010) 11 SCC 661 (STATE BANK OF INDIA AND ANOTHER VS. RAJKUMAR) and (2007) 9 SCC 571 (STATE BANK OF INDIA AND OTHERS VS. JASPAL KAUR) and prayed for dismissal of the writ petition.

11. The learned Single Judge, taking into consideration the submissions made by the counsel for both parties and taking note of the judgements relied on by both sides, came to the conclusion and allowed the writ petition relying on the judgment reported in 2015 (2) LLN 545 (CANARA BANK AND ANOTHER Vs. M. MAHESH KUMAR) of the Hon'ble Supreme Court and also relying upon an unreported decision of the Division Bench of the Bombay High Court in W.P. No.1603 of 2012, dated 29.09.2016 (MAHESH SINGH BISHT Vs. CANARA BANK), which was stated to be in identical circumstances, had quashed the letter of the 2nd respondent/appellant dated 06-08-2014 and directed the appellants/respondents bank to consider the application of the respondent/petitioner dated 16.02.2001 for compassionate appointment under the scheme for appointment of compassionate ground for the dependants of the deceased employee/employees retired, within a period of eight weeks from the date of receipt of a copy of that order on medical grounds. This is the order which has been challenged by way of this writ appeal.

12. Mr. S. Ravindran, the learned Senior Counsel representing for the appellants/respondents bank assailed the order of the learned Single Judge stating that the order has been passed without proper appreciation of legal decisions rendered by the Hon'ble Apex Court regarding the relevant facts and circumstances of the case and further contended that there were certain guidelines under the 1997 scheme for appointment of compassionate ground and that if only a dependant is able to fulfil the criteria successfully, he would be offered appointment on probation and however every dependent does not have automatic right/lien on the employment of the bank on compassionate ground. He further stated that the order of the learned Single Judge giving positive direction to the appellants/respondents Bank to provide employment to the

respondent/petitioner, is exfacie, erroneous in law.

13. The learned Senior counsel appearing for the appellants also contended that the learned Single Judge had failed to note that even as per the 1997 scheme, 67 applications for compassionate appointment were rejected by the appellants bank for not fulfilling the criteria and the learned counsel vehemently argued that as per clause 14 of the 2005 scheme, for Ex-gratia lump sum amount, application pending under the compassionate appointment scheme would be dealt under the new scheme of payment of Ex-gratia lump sum amount, provided that all terms and conditions of the scheme are fulfilled. Therefore, all pending applications under the earlier scheme as on 04.08.2005 were to be dealt with under the new scheme and thereby the direction of the learned Judge to the appellants/Bank to provide the employment to the respondent/petitioner is erroneous.

14. The learned Senior counsel appearing for the appellants/ respondents also contended that the learned single Judge had failed to appreciate that in the case of STATE BANK OF INDIA AND ANOTHER Vs. RAJKUMAR reported in 2010 (11) SCC 661 and in the case of MGB GARAMIN BANK Vs. CHAKRAWARTI SINGH reported in [(2014) SCC 583] on identical facts, the Hon'ble Supreme Court had held that compassionate employment cannot be based on the 1997 scheme for appointment on compassionate grounds which had lapsed consequent to the introduction of the new scheme and contended that the learned single Judge had committed an error in relying on the judgment reported in 2015 (2) LLN 545 (SC) (CANARA BANK AND ANOTHER Vs. M. MAHESH KUMAR) and hence, sought for setting aside the order of the learned Single Judge.

15. Mr.N.G.R. Prasad, the learned counsel, who had appeared on caveat for the respondent/petitioner contended that though the respondent/petitioner's father died on 08.09.2000 and the application for seeking compassionate appointment was submitted as early on 16.02.2001 as per the 1997 Scheme, the Bank had slept over the matter for about four long years and no valid reasons have been stated by the Bank for keeping the application pending during the year between 2001 to 2005 and that the delay could not be attributed to the respondent/petitioner.

16. It is also brought to the notice of the Court that by letter dated 30.09.2004 sent by the Chief Manager, Thiruvannamalai Branch of the Bank to the Assistant General Manager of the appellants/respondents bank stating that two sons of the deceased employee are still unemployed and they are struggling for day-to-day life, had recommended to the Zonal office to look into the matter sympathetically at the earliest. Thus, it is clear to state that the bank was satisfied with the financial status of the family of the deceased employee and the officer of the Bank had in fact recommended for compassionate appointment. He also contended that during the period between 2001 and 2005, 101 similar applications had been considered whereas the respondent/petitioner's application was kept in the cold storage for no fault on him and prayed for confirmation of the order passed by the learned Single Judge.

17. We have heard the learned counsel on either side and carefully gone through the records.

18. At this juncture, it is useful to refer to the Judgment of the Hon'ble Apex Court reported in (2014) 13 SCC 583, in the case of MGB GRAMIN BANK Vs. CHAKRAWARTI SINGH in and by which, the Hon'ble Apex Court, referring to many other judgments and more particularly the case of STATE BANK OF INDIA AND ANOTHER Vs. RAJ KUMAR reported in (2010) 11 SCC 661 has held in paragraph Nos.14 to 17 as follows:

14. "A scheme containing an in pari materia clause, as is involved in this case was considered by this Court in State Bank of India & Anr. vs. Raj Kumar (2010) 11 SCC 661. Clause 14 of the said Scheme is verbatim to clause 14 of the scheme involved herein, which reads as under:

"14. Date of effect of the scheme and disposal of pending applications: The Scheme will come into force with effect from the date it is approved by the Board of Directors. Applications pending under the Compassionate Appointment Scheme as on the date on which this new Scheme is approved by the Board will be dealt with in accordance with Scheme for payment of ex-gratia lump sum amount provided they fulfil all the terms and conditions of this scheme."

15. The Court considered various aspects of service jurisprudence and came to the conclusion that as the appointment on compassionate ground may not be claimed as a

matter of right nor an applicant becomes entitled automatically for appointment, rather it depends on various other circumstances i.e. Eligibility and financial conditions of the family, etc., the application has to be considered in accordance with the scheme. In case the Scheme does not create any legal right, a candidate cannot claim that his case is to be considered as per the Scheme existing on the date the cause of action had arisen i.e. death of the incumbent on the post. In State Bank of India & Anr.Vs. Rajkumar and another (supra), this Court held that in such a situation, the case under the new Scheme has to be considered.

16. In view of the above position, the reasoning given by the learned Single Judge as well as by the Division Bench is not sustainable in the eyes of law. The appeal is allowed and the impugned Judgments of the High Court are set aside.

17. The respondent may apply for consideration of his case under the new Scheme and the appellants shall consider his case strictly in accordance with clause 14 of the said new Scheme within a period of three months from the date of receiving of application. With these observations, the appeal stands disposed of."

19. While it is so, in a later decision reported in 2015 (2) LLN 545 (SC) in the case of CANARA BANK AND ANOTHER Vs. M. MAHESH KUMAR, the Hon'ble Supreme Court, taking into consideration various decisions and more particularly again referring to the case reported in (2010) 11 SCC 661 in the case of STATE BANK OF INDIA AND ANOTHER Vs. RAJKUMAR with regard to claim for Compassionate Appointment and applicability of Old Scheme for Compassionate Appointment Vis-a-Vis new reinstituted Scheme for Ex-gratia payment, has held in Paragraph Nos. 11 to 17 as follows:

11. "The main question falling for consideration is whether the Scheme passed in 2005 providing for ex-gratia payment or the Scheme then in vogue in 1993 providing for Compassionate Appointment is applicable to the respondent. appellants-Bank has placed reliance upon the Judgment of this Court in Jaspal Kaur's case (supra) to contend that the Respondent's case cannot be considered on the basis of 'Dying in Harness Scheme 1993' when the new Scheme of 2005 providing for ex-

gratia payment had been put in place. In Jaspal Kaur's case (supra), Sukhbir Inder Singh employee of State Bank of India, Record Assistant (Cash & Accounts) passed away on 1.08.1999. Widow of the employee applied for compassionate appointment in State Bank of India on 5.02.2000. On 7.01.2002, the competent authority of the bank rejected the application of Jaspal Kaur in view of the Scheme vis-a-vis the financial position of the family. Against that decision of the competent authority, the respondent filed writ petition before the Punjab and Haryana High Court which has directed to consider the case of Jaspal Kaur by applying the Scheme formulated on 4.08.2005 when her application was made in the year 2000. In that factual matrix, this Court has directed that dispute arising in the year 2000 cannot be decided on the basis of a Scheme that was put in place much after the dispute. By perusal of the judgment in Jaspal Kaur's case, it is apparent that the judgment specifically states that claim of compassionate appointment under a scheme of a particular year cannot be decided in the light of the subsequent scheme that came into force much after the claim.

12 . The same principle was reiterated by this Court in the case of Bhawani Prasad Sonkar vs. Union of India & Ors., (2011) 4 SCC 209, wherein it was held as under:

"15.
Now, it is well settled that compassionate employment is given solely on humanitarian grounds with the sole object to provide immediate relief to the employee's family to tide over the sudden financial crisis and cannot be claimed as a matter of right. Appointment based solely on descent is inimical to our constitutional scheme, and ordinarily public employment must be strictly on the basis of open invitation of applications and comparative merit, in consonance with Articles 14 and 16 of the Constitution of India. No other mode of appointment is permissible. Nevertheless, the concept of compassionate appointment has been recognised as an exception to the general rule, carved out in the interest of justice, in certain exigencies, by way of a policy of an employer, which partakes the character of the service rules. That being

so, it needs little emphasis that the scheme or the policy, as the case may be, is binding both on the employer and the employee. Being an exception, the scheme has to be strictly construed and confined only to the purpose it seeks to achieve.....

17. In Umesh Kumar Nagpal v. State of Haryana, (1994) 4 SCC 138, while emphasising that a compassionate appointment cannot be claimed as a matter of course or in posts above Classes III and IV, this Court had observed that: (SCC p. 140, para 2)

2. ...The whole object of granting compassionate employment is thus to enable the family to tide over the sudden crisis. The object is not to give a member of such family a post much less a post for post held by the deceased. What is further, mere death of an employee in harness does not entitle his family to such source of livelihood. The Government or the public authority concerned has to examine the financial condition of the family of the deceased, and it is only if it is satisfied, that but for the provision of employment, the family will not be able to meet the crisis that a job is to be offered to the eligible member of the family. The posts in Classes III and IV are the lowest posts in non-manual and manual categories and hence they alone can be offered on compassionate grounds, the object being to relieve the family, of the financial destitution and to help it get over the emergency. The provision of employment in such lowest posts by making an exception to the rule is justifiable and valid since it

is not discriminatory. The favourable treatment given to such dependant of the deceased employee in such posts has a rational nexus with the object sought to be achieved viz. relief against destitution. No other posts are expected or required to be given by the public authorities for the purpose. It must be remembered in this connection that as against the destitute family of the deceased there are millions of other families which are equally, if not more destitute. The exception to the rule made in favour of the family of the deceased employee is in consideration of the services rendered by him and the legitimate expectations, and the change in the status and affairs, of the family engendered by the erstwhile employment which are suddenly upturned."

20. Thus, while considering a claim for employment on compassionate ground, the following factors have to be borne in mind:

(i) Compassionate employment cannot be made in the absence of rules or regulations issued by the Government or a public authority. The request is to be considered strictly in accordance with the governing scheme, and no discretion as such is left with any authority to make compassionate appointment de hors the scheme.

(ii) An application for compassionate employment must be preferred without undue delay and has to be considered within a reasonable period of time.

(iii) An appointment on compassionate ground is to meet the sudden crisis occurring in the family on account of the death or medical invalidation of the

breadwinner while in service. Therefore, compassionate employment cannot be granted as a matter of course by way of largesse irrespective of the financial condition of the deceased/incapacitated employee's family at the time of his death or incapacity, as the case may be.

(iv) Compassionate employment is permissible only to one of the dependants of the deceased/ incapacitated employee viz. parents, spouse, son or daughter and not to all relatives, and such appointments should be only to the lowest category that is Class III and IV posts." (Underlining added)

13. Applying these principles to the case in hand, as discussed earlier, respondent's father died on 10.10.1998 while he was serving as a clerk in the appellants-bank and the respondent applied timely for compassionate appointment as per the scheme 'Dying in Harness Scheme' dated 8.05.1993 which was in force at that time. The appellants-bank rejected the respondent's claim on 30.06.1999 recording that there are no indigent circumstances for providing employment to the respondent. Again on 7.11.2001, the appellants-bank sought for particulars in connection with the issue of respondent's employment. In the light of the principles laid down in the above decisions, the cause of action to be considered for compassionate appointment arose when the Circular No.154/1993 dated 8.05.1993 was in force. Thus, as per the Judgment referred in Jaspal Kaur's case, the claim cannot be decided as per 2005 Scheme providing for ex-gratia payment. The Circular dated 14.2.2005 being an administrative or executive order cannot have retrospective effect so as to take away the right accrued to the respondent as per circular of 1993.

14. It is also pertinent to note that 2005 Scheme providing only for ex-gratia payment in lieu of compassionate appointment stands superseded by the Scheme of 2014 which has revived the scheme providing for compassionate appointment. As on date, now

the scheme in force is to provide compassionate appointment. Under these circumstances, the appellants-bank is not justified in contending that the application for compassionate appointment of the respondent cannot be considered in view of passage of time.

15. Insofar as the contention of the appellants-bank that since the respondent's family is getting family pension and also obtained the terminal benefits, in our view, is of no consequence in considering the application for compassionate appointment. Clause 3.2 of 1993 Scheme says that in case the dependant of deceased employee to be offered appointment is a minor, the bank may keep the offer of appointment open till the minor attains the age of majority. This would indicate that granting of terminal benefits is of no consequence because even if terminal benefit is given, if the applicant is a minor, the bank would keep the appointment open till the minor attains the majority.

16. In *Balbir Kaur & Anr. vs. Steel Authority of India Ltd. & Ors.*, (2000) 6 SCC 493, while dealing with the application made by the widow for employment on compassionate ground applicable to the Steel Authority of India, contention raised was that since she is entitled to get the benefit under Family Benefit Scheme assuring monthly payment to the family of the deceased employee, the request for compassionate appointment cannot be acceded to. Rejecting that contention in paragraph (13), this Court held as under:

"13. ...But in our view this Family Benefit Scheme cannot in any way be equated with the benefit of compassionate appointments. The sudden jerk in the family by reason of the death of the bread earner can only be absorbed by some lump-sum amount

being made available to the family – this is rather unfortunate but this is a reality. The feeling of security drops to zero on the death of the bread earner and insecurity thereafter reigns and it is at that juncture if some lump-sum amount is made available with a compassionate appointment, the grief-stricken family may find some solace to the mental agony and manage its affairs in the normal course of events. It is not that monetary benefit would be the replacement of the bread earner, but that would undoubtedly bring some solace to the situation.”

Referring to Steel Authority of India Ltd.'s case, High Court has rightly held that the grant of family pension or payment of terminal benefits cannot be treated as a substitute for providing employment assistance. The High Court also observed that it is not the case of the bank that the respondents' family is having any other income to negate their claim for appointment on compassionate ground.

17. Considering the scope of the Scheme 'Dying in Harness Scheme 1993' then in force and the facts and circumstances of the case, the High Court rightly directed the appellants-bank to reconsider the claim of the respondent for compassionate appointment in accordance with law and as per the Scheme (1993) then in existence. We do not find any reason warranting interference.”.....

20. We find from the above decision reported in 2015 (2) LLN 545 (SC) in the case of CANARA BANK AND ANOTHER Vs. M. MAHESH KUMAR, the Hon'ble Apex Court had held in paragraph no.13 that in the light of the principles laid down in the above said decisions, the Circular dated 14.2.2005 being an administrative or executive order cannot have retrospective effect so as to take away the right accrued to the respondent as per circular of 1993 and further in paragraph no.14, directed to

consider compassionate appointment taking note of the fact that the 2005 Scheme providing only for ex-gratia payment in lieu of compassionate appointment stands superseded by the later Scheme of 2014 which has revived the scheme providing for compassionate appointment and since as on date, now the scheme in force is to provide compassionate appointment had stated that the appellants-bank is not justified in contending that the application for compassionate appointment of the respondent cannot be considered in view of passage of time.

21. When we take a look at the facts of the case on hand, the father of the respondent/petitioner expired on 08.09.2000 while he was in service, having completed unblemished service of 14 years and soon after his demise, the son of the employee the respondent/petitioner had made an application for Compassionate appointment to the Bank on 16.02.2001. However the bank had kept the application without consideration and finally rejected it after the introduction of the new scheme. It is to be noted that by letter dated 30.09.2004, the Chief Manager of the Bank, Thiruvannamalai Branch, had informed that two sons of the deceased were unemployed and they were struggling for day-to-day life itself and had recommended for early consideration of the application for appointment. Even after that, no action was taken and finally it was rejected in 2005 after four long years. It is to be further noted that even after consideration of the financial status of the family needing urgent requirement of employment, the application had been kept pending and no valid and plausible explanation had been furnished by the appellants/respondents bank for the delay.

22. Further, It is really painful to see the approach of the Officers of the appellants/respondent Bank, which is absolutely insensitive to the peculiar requirements of dealing with the case on compassionate appointment. The human consideration and urgency as the situation requires in attending to the application for compassionate appointment is completely forgotten. There is absolutely non-application of mind in consideration of the petitioner's application for compassionate appointment and it appears that deliberately it had been delayed for about four years to take a decision on the petitioner's application for compassionate appointment and no plausible or valid reason had been stated by the appellants for the delay. Excepting the introduction of the New Scheme, no other reason has been stated for non-consideration of the appointment for Compassionate Appointment. In fact, the cause of action arose on 16.02.2001 when the old scheme was in force and therefore,

the respondent/petitioner cannot be faulted for the delay.

23. The Hon'ble Apex Court has taken note of the present stage in which the 2005 Scheme providing only for ex-gratia payment in lieu of Compassionate Appointment stands superseded by the Scheme of 2014 which has revived the Scheme providing for Compassionate Appointment and has directed to consider the case of Compassionate Appointment.

24. The appellants/bank has now introduced the new scheme new scheme called " State Bank of India Scheme for Compassionate Appointment in Exceptional circumstances" which provides for Compassionate Appointment in exceptional circumstances. Further it is learnt that the respondent/petitioner is now working in the Bank as a casual labour under a contractor and till date the family has also not received the ex-gratia amount as per the scheme of the year 2005.

25. Taking into consideration the decisions relied on by both sides and the facts and circumstances in the case, we find that there is no infirmity in the order passed by the learned Single Judge. Hence, the writ appeal stands dismissed. However, there will be no order as to cost. It is made clear that in the event of giving appointment to the respondent/petitioner on compassionate grounds, the same would take only prospective effect and the respondent/petitioner will not be entitled to any retrospective service benefits.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

lbm

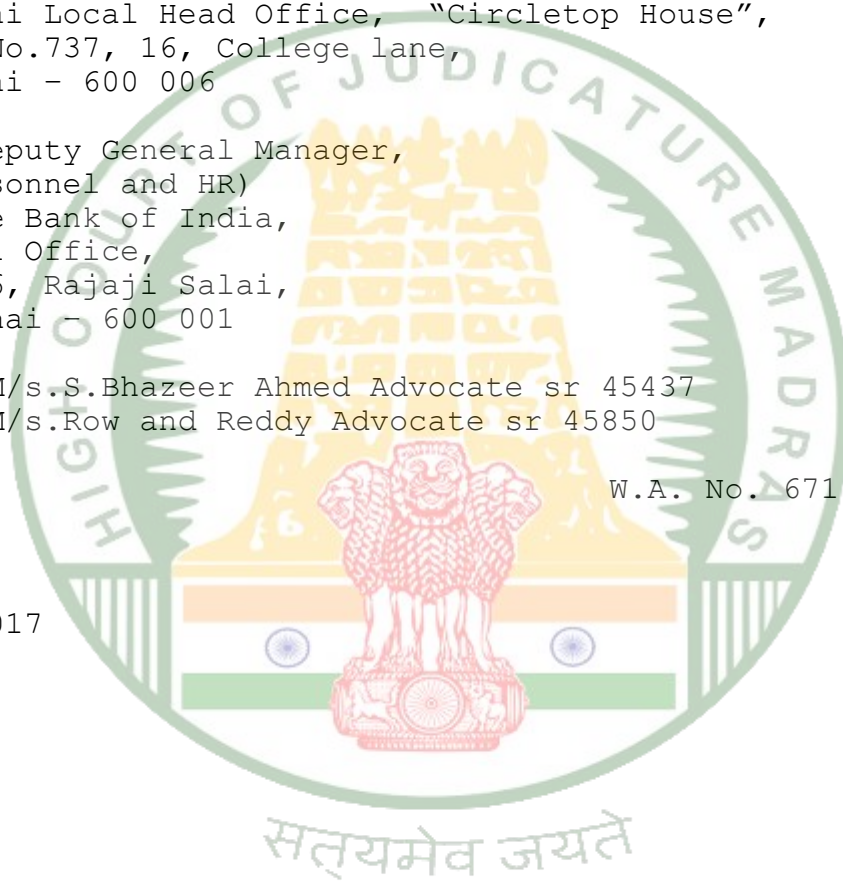
To

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