



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.01.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

AND

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.A.[MD].No.1603 of 2016

and

C.M.P.(MD).No.12106 of 2016

1.The General Manager [Personnel],
Personnel Administration Department,
Indian Overseas Bank,
Central Office, No.763, Anna Salai,
Chennai 2.

2.The Branch Manager,
Indian Overseas Bank,
Kamarajar Road, Kumbakonam,
Thanjavur District.

: Appellants/Respondents

Vs.

Banumathi

: Respondent/Petitioner

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent against the order dated 30.01.2015 made in W.P.(MD).No.1171 of 2012, on the file of this Court.

Prayer in W.P.(MD).No.1171 of 2012:

This Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a WRIT OF MANDAMUS, directing the respondents to appoint the petitioner as Sub-Staff or in any other competent post under Compassionate Ground by considering her application, dated 02.08.2004 or otherwise to provide ex-gratia amount in lieu of compassionate appointment by considering her application, dated 25.07.2005 and 16.11.2007.

For Appellants : Mr.M.P.Senthil
For Respondent : Mr.N.Sathishbabu

JUDGMENT

[Judgment of the Court was made by **R.SUBBIAH, J.**]

This Writ Appeal has been filed as against the order, dated 30.01.2015, made in W.P.(MD).No.1171 of 2012, whereby and whereunder, the learned Single Judge of this Court, while disposing of the Writ Petition, directed the appellants herein to consider the application of the respondent herein, afresh, taking into consideration the fact that the respondent is very poor and maintaining her two daughters, one of whom is physically challenged.



2. The case of the respondent before the learned Single Judge was that her husband, by name, K.Inbaraj, worked as Sub-Staff [Drafter] at the office of the second appellant herein and died in harness, on 27.05.2004, leaving behind the respondent and her two daughters. The respondent submitted an application on 02.08.2004, seeking appointment on compassionate ground to the first appellant, through the second appellant herein. Since there was no reply, the respondent approached the second appellant, on several occasions. Finally, the respondent was called upon to submit an application for payment of ex-gratia amount, as the application for appointment on compassionate ground was withdrawn. Therefore, the respondent chosen to submit applications seeking ex-gratia amount, on 25.07.2005 and 16.11.2007 before the second appellant. Since no action was taken by the appellants, the respondent was constrained to file W.P.(MD).No.1171 of 2012 seeking a Writ of Mandamus, directing the appellants herein to appoint her as sub-staff or in any other competent post on compassionate ground, by considering her application dated 02.08.2004 or otherwise to provide ex-gratia amount in lieu of appointment on compassionate ground, by considering her applications dated 25.07.2005 and 16.11.2007.

3. But, the case of the respondent was resisted by the appellants before the learned Single Judge, by contending that as per the scheme, for payment of ex-gratia amount, the application has to be made within a period of six months from the date of death of the deceased employee. In the instant case, no application was received by the appellants within a period of six months from the date of the death of the deceased employee. Though it is contended by the respondent that she had forwarded the applications, on 02.08.2004 and 25.07.2005, seeking appointment on compassionate ground, no such applications were received by the appellants. However, only on 16.11.2007, the application submitted by the respondent was received, which was rejected, since it was made after lapse of six months.

4. The learned Single Judge of this Court, by order dated 30.01.2015, after hearing the learned counsel on either side and by carefully analyzing the entire materials, directed the appellants herein to consider the application of the respondent herein, afresh, taking into consideration the fact that the respondent is very poor and maintaining her two daughters, out of whom, one of the child is differently abled. The learned Single Judge further observed that the said order was passed, taking into account the pathetic condition of the respondent and the same shall not be taken as a precedent for other cases. Absolutely, we find no infirmity in the order passed by the learned Single Judge of this Court to make interference. Therefore, the Writ Appeal is liable to be dismissed.

<https://hcservices.mca.gov.in/hcservices/>

5. In the result, the order dated 30.01.2015 made in W.P.(MD). No.1171 of 2012, is confirmed and the Writ Appeal is dismissed.



The appellants are directed to consider the application of the respondent herein dated 16.11.2007, taking into her pathetic condition and pass appropriate orders, as directed by the learned Single Judge, with regard to the payment of ex-gratia amount, within a period of six weeks from the date of receipt of a copy of this Judgment. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

/TRUE COPY/

Sub Assistant Registrar

+1 cc to MR.N.Sathish Babu, ADVOCATE, SR NO:3907
+1 cc to MR.M.P.Senthil, ADVOCATE, SR NO:3993

JUDGMENT MADE IN
W.A.[MD].No.1603 of 2016
24.01.2017

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