

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP -588-2017

Date of decision: 15.05.2017

Daljeet Singh

.... Petitioner

VS.

Punjab National Bank & ors.

.... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Praveen Chauhan, Advocate
for the petitioner.

Mr. Saurav Verma, Advocate
for the respondents.

Rajiv Narain Raina, J.(Oral)

1. The petitioner had turned major at the time of the death of his father Dhian Singh on 12.10.2003. His father died in harness while working as an Armed Guard with the respondent Punjab National Bank. Today, the petitioner is 38 years of age and as per Bank policy has crossed the maximum age of appointment in any of the categories of service. Besides, the financial status of the family is not one of extreme hardship faced by the survivors after the death of the employee. Late Dhian Singh was close to retirement at the time of death.

2. Learned counsel for the petitioner has pointed out to the contents of the pleaded statement on financial status as reviewed by Regional Manager, Punjab National Bank (HRD Section), Regional Office, Amritsar (Annexure P-3) dated 09.09.2004. The relevant part of which is reproduced as under:

“The widow of Shri Singh has informed us

that none of her daughters/sons are employed anywhere and the family is also not having any source of income, since Shri Singh has not opted for pension. Shri Singh has left behind widow, three daughters and two sons, he was the only breadwinner for the family and after his death, nobody in the family is left with earning hands. Moreover, two sons are of marriageable age and huge amount is required for their marriage and the family is in dire need of employment. Moreover, two of his children are handicapped and they cannot do any other business. The widow of Shri Singh has requested for providing employment to his elder son Shri Daljeet Singh.”

Even though the recommendation made in 2004 was in favour of the petitioner recommending providing employment in the Bank in the Subordinate Cadre, but the recommendation did not materialize into an offer of appointment. The reason for delay was lack of inputs provided by the family which were necessary procedural paper work requirements of processing an application for compassionate appointment. Soon after the death of the employee the family shifted to Himachal Pradesh and Mr. Verma appearing for the respondents has explained from the document (Annexure P-5) produced by the petitioner himself by which the prescribed ex gratia amount of financial assistance has been sanctioned in favour of the mother of the petitioner with the lament that no effort has been made by the family to claim ex gratia payment. The document originates from the Punjab National Bank, HRD Section, Circle Office, Amritsar and was submitted to the higher authority, which reads as follows:

“The reason for delay in submission of ex-

gratia proposal is as under:

After death of the subject the family of late Sh. Dhian Singh, A/Guard has applied for providing employment to his son Sh. Daljeet Singh on compassionate ground in the month of Sept. 2004. As requested by family of the deceased we have sent the proposal to Zo, Ludhiana vide our no.STF:I:PF:1139 dated 09.09.2004 for providing employment to son of deceased.

Meanwhile, in terms of HRDD Cir. No.235 dated 07.01.2005 clause 9.6, the scheme for Providing ex gratia (Lump-sum amount) in lieu of employment on compassionate grounds came in force from 29.10.2004 and all application for compassionate appointment pending as on the effective date i.e. 29.10.2004 will be dealt with in accordance with the above scheme approved by the Board. The application for employment on compassionate ground was pending with Zonal Office, Ludhiana as on the date of circular.

On 05.05.2005 vide our letter No.3438 endorsed to BM, Putlighar, we have informed the facts of the circular to the family of the deceased and advised them to send their case on the enclosed proforma for payment of ex gratia. Again on 19.05.2005 vide our letter No.8977 under copy to BM, BO, Putlighar, we have send reminder to Smt. Gowdi Devi wife of Sh. Late Sh. Dhian Singh.

On 02.06.2006 vide our letter dated 02.06.2006, we have again advised family of the deceased to submit their proposal for payment of ex gratia (Lump-sum). On 08.10.2008, Smt. Gowdi Devi wd/o Late Sh. Dhian Singh had sent their representation under RTI Act, the reply of which was submitted to Sr. Manager

Insp. Deptt. vide our letter No.5330 dt. 03.12.2008 for further reply to Smt. Gowdi Devi.

Due to our continuous follow up with the deceased's family, they have submitted their proposal for sanction of ex-gratia (Lump-Sum) amount. We have pointed out certain discrepancies vide our letter No.5404 dated 13.12.2008 in the proposal. The family of the deceased has submitted their reply very late due to the reason that they are residing at Kangra (Himachal Pradesh). It is very difficult to contact with the family and we have followed up with them over telephone also number of times.

On 13.03.2009 BM, BD: Putlighar has again submitted the proposal of family of the deceased for payment of ex gratia and finally on 11.04.2009 BM has informed the family pension figure to us.

Keeping in view above facts, we may recommend to HO for sanction an ex gratia (Lump Sum amount) of 27,342/- to the family of the deceased employees.

Submitted for order, please.

Proposal for Ex gratia."

This proposal is of 2009.

The petitioner has not shown that he has made any effort to seek employment anywhere during the interregnum and has failed to search for a job or has remained without work all this while. He has approached this Court to get ex gratia employment in the Bank. It is well settled that compassionate appointment is not a source of recruitment and such requests are subject to mandates in Article 14 and 16 of the Constitution of India and such compensatory employment is awarded in exceptional cases of extreme undue hardship where a family has been left destitute on the death of the

sole income producer with hardly any resources to fend for itself.

None of these elements is present in this case to consider in a request for issuance of writ of mandamus commanding the bank to provide a job to the petitioner. Even to consider such request the petitioner is overage. No interference is warranted in this case.

Nevertheless, the ex gratia amount of financial assistance, if not paid, be considered for disbursement by the Bank by way of RTGS in the petitioner's mother account or by other means as instructed by the mother of the petitioner as the money would, when paid, in the first instance belong to her coming directly from her husband. The Bank would on a consideration of the matter transfer the fixed ex gratia amount with interest @ 10% per annum [the amount being a little over ₹30,000/-] from the date of death of the employee on 12.10.2003 till payment as policy makes it incumbent to deliver without procedural red tape as per HR Division Circular No.433 dated 03.11.2007, which Circular though not cited in the petition but is taken judicial notice of when brought to the notice of the Court saving all exceptions. The Bank would also consider its decision on ex gratia payment in the light of the decision of Supreme Court in ***M.G.B. Gramin Bank vs. Chakarvarti Singh***, (2014) 13 SCC 583. The Supreme Court in this case has held that it is a date of consideration which should be kept in mind to deal with compassionate appointment and ex gratia financial support as it would in the case of late Sh. Dhian Singh's wife -LRs.

The bank would pass a speaking order on the payment rights under the present or past policy, whichever is applicable, in accordance with law.

Let such a decision be taken within a period of three months. If

hearing is asked for by the family of the late Dhian Singh, the same will be granted. If payment is found due it would be calculated and paid within the same time frame but not later than one month of the final decision.

The present petition is disposed of with the above observations and directions.

(RAJIV NARAIN RAINA)
JUDGE

15.05.2017

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1. <i>Whether speaking/non-speaking?</i>	<i>Yes</i>
2. <i>Whether reportable?</i>	<i>No</i>