

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6259 of 2016

=====

Ashutosh Ellami, Son of Late Kanhiya Lal Sindhi, Resident of Mohalla-Kathalbari, Police Station- L.N.M.U. Campus, District- Darbhanga.

.... Petitioner/s

Versus

1. The United Bank of India through its Chairman-cum-Managing Director, Head Office At -11 Hemant Basu Sarani, Kolkata-1, West Bengal.
2. Chairman-cum-Managing Director of the United Bank of India, Head Office At 11 Hemant Basu Sarain, Kolkata-1, West Bengal.
3. Chief Manager, Human Resources Development Department, United Bank of India, Head Office At 11 Hemant Basu Sarain, Kolkata-1, West Bengal.
4. General Manager, United Bank of India.
5. Regional Manager, United Bank of India, Bihar, Patna.
6. Senior Manager, Begusarai Branch of United Bank of India Main Road Naurang, Begusarai.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Arun Kumar, Adv.

For the Respondent/s : Mr. Binod Bihari Sinha, Adv.

Mr. Amarjeet Chaudhary, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 19-06-2018

Heard Mr. Arun Kumar, learned counsel for the petitioner and
Dr. Binod Bihari Sinha learned counsel for the Bank.

The petitioner is aggrieved by the order dated 30.12.2014 whereby his application for compassionate appointment has been rejected inter alia on grounds that under the scheme in force, the family was only entitled to ex gratia lump sum amount which has been paid in lieu of compassionate appointment but the petitioner was



not entitled for the relief of compassionate appointment.

Mr. Arun Kumar learned counsel for the petitioner has relied upon an advisory of the Ministry of Finance dated 07.08.2014 to press the claim as according to Mr. Arun Kumar, the restrictions present in the scheme of compassionate appointment in force in the respondent Bank, a copy of which is at Annexure-A to the counter affidavit and limits such consideration only to employees with minor children who have died while performing official duty as a result of violence, terrorism, robbery or dacoity or those employee dying within five years of appointment or before reaching the age of thirty years, whichever is later, stands diluted by the stipulations present in the circular of the Ministry of Finance dated 07.08.2014 which extends benefit of compassionate appointment to all employees.

Contesting the submission it is the argument of Mr. Sinha that the claim of the petitioner was tested as per the Scheme in force on the date of death of the father of the petitioner on 17.04.2011 as present at Annexure-8 and since the claim of the petitioner did not fall in either of the categories present at paragraph 4B thereof that the bank while disallowing his application for compassionate appointment has instead made payment of ex gratia lump sum amount of Rs. 8 lacs in lieu thereof.



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

The sheet anchor for the petitioner for pressing the claim is the Ministry of Finance, Circular dated 07.08.2014 which has been rejected vide Annexure-1 in the light of the scheme prevalent in the bank with effect from 31.07.2004. It is following the scheme that a payment of Rs. 8 lacs by way of ex gratia lump sum amount has been made to the family of the deceased in lieu of compassionate appointment.

The issue canvassed by Mr. Arun Kumar relying upon the circular dated 07.08.2014 of the Ministry of Finance which came into force much after the death of the father of the petitioner on 17.04.2011 stands concluded in the judgment of the Supreme Court reported in **(2015) 7 SCC 412 (Canara Bank & Ors. versus M. Mahesh Kumar)**. That was a case converse to the issue in hand and in that case the death of the Bank employee took place while the scheme of compassionate appointment was in force but by the time it reached consideration, the scheme was replaced by the scheme of 2005 which though provided for compassionate appointment in exceptional cases as in the present case but in substance provided for payment of ex gratia lump sum amount in lieu thereof. The applicant having



succeeded before the High Court which upheld the claim after taking note of the scheme of compassionate appointment in force at the time of the death of the Bank employee, the matter reached the Supreme Court at the instance of the Bank. The Supreme Court while dismissing the appeal of the Bank and upholding the judgment of the High Court has clarified that it would be the scheme which was prevalent on the date of death of the employee concerned which would be the guiding factor for considering the claim of an applicant and not a scheme subsequently introduced. Applying the said principles to the case of the petitioner, it is not disputed that the scheme at Annexure- A which was in force at the time of the death of the father of the petitioner in 2011 provided compassionate appointment only in exceptional cases. Even though the Ministry of Finance has reintroduced the scheme of compassionate appointment in the year 2014 but this subsequent development in my opinion would not vest the petitioner with any enforceable right which has to be tested as per the scheme prevalent on the date of the death of the father. On the legal position thus so settled in the case of **M. Mahesh Kumar(supra)**, I find no infirmity in the order of rejection present at Annexure-1.

Since the family of the deceased employee has while pursuing



the cause raised herein, not yet received the ex gratia lump sum amount as allowed by the bank, it is for them to approach the concerned authorities of the Bank for the same and it goes without saying that since there no dispute on such eligibility of the petitioner or his family members to the payment of ex gratia amount, the bank would not delay in making payment of the amount.

The writ petition is disposed of with the direction aforementioned.

(Jyoti Saran, J)

Bibhash/Ranveer

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	03.07.2018
Transmission Date	NA

