

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5742 of 2016

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Sumitra Devi, Wife of late Jagdish Prasad, Resident of Village- Shankardih, PO & PS- Parsa, District Saran at Chapra.

.... Petitioner/s

Versus

1. Uttar Bihar Gramin Bank, through its General Manager, Head Office, Kalambagh Chowk, PS- Kagimohhamadpur, District Muzaffarpur.
2. The General Manager, Uttar Bihar Gramin Bank, Head Office, Kalambagh Chowk, PS- Kagimohhamadpur, District Muzaffarpur.
3. The Chairman, Uttar Bihar Gramin Bank, Head Office- Kalambagh Chowk , PS Kagimohhamadpur, District Muzaffarpur.
4. The General Manager (Personnel), Uttar Bihar Gramin Bank, Head Office, Kalambagh Chowk, PS- Kagimohhamadpur, District Muzaffarpur.
5. Senior Manager (Personnel), Uttar Bihar Gramin Bank, Head Office, Kalambagh Chowk, P.S- Kagimohhamadpur, District Muzaffarpur.
6. The Regional Manager, Uttar Bihar Gramin Bank, Head Office, Kalambagh Chowk, P.S- Kagimohhamadpur, District Muzaffarpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rakesh Kumar Tiwary, Adv.

For the Respondent/s : Mr. Prabhakar Jha, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 19-04-2018

Heard Mr. Rakesh Kumar Tiwary, learned counsel appearing for the petitioner and Mr. Prabhakar Jha, learned counsel appearing for the Bank.

The petitioner prays for quashing of the letter dated 30.3.2013 of the Manager (Personnel), Uttar Bihar Gramin Bank, Regional Office, Chapra, whereby the application of the petitioner for ex-gratia payment has been rejected simply on grounds of delay.

The facts of the case as reflected from the proceedings briefly noted is that the husband of the petitioner was appointed as a Peon in the respondent Bank on 9.5.1986 and died in harness on



5.11.2009. The petitioner applied for compassionate appointment of her son to rise above penury on account of death of her husband, a copy of which is at Annexure 1 and is dated 15.2.2012. The application for compassionate appointment was not acted upon rather the petitioner was asked to fill up the form for ex-gratia payment in lieu of compassionate appointment. While according to the letter dated 13.12.2012 present at Annexure 2, the application was to be filed by 20.6.2012, the impugned letter dated 30.3.2013 at Annexure 3 shows that the said requirement was to be deposited by 30.6.2012 but the petitioner took two months more time to deposit the same on 25.8.2012. It is for this reason that the prayer for ex-gratia payment has been rejected. The petitioner feeling aggrieved is before this Court for neither her application for compassionate appointment has been allowed and even her application for ex-gratia payment has been rejected.

A peculiarity of the situation is that though the letter dated 13.12.2012 of the Branch Manager (Personnel) at Annexure 2 charges the petitioner of not depositing her ex-gratia payment form by 12.6.2012 and thus a direction is issued for depositing the same by 20.6.2012, the impugned letter of rejection dated 30.3.2013 while admitting to the deposit of the application for ex-gratia payment on 25.8.2012, proceeds to reject the same because according to the Manager (Personnel), it was to be deposited by



30.6.2012 which again is a deviation from Annexure 2. The situation is sought to be explained by the Law Officer in the counter affidavit filed today to state at paragraph 12 that the letter at Annexure 2 is in fact dated 13.6.2012 but due to typographical error it reads 13.12.2012.

Mr. Prabhakar Jha, learned counsel appearing for the Bank while inviting the attention of the Court to the scheme enclosed with the counter affidavit has submitted that the period stipulated for submission of form is six months but considering the status of the deceased employee that the petitioner was allowed time until 30.6.2012 but she did not choose to deposit the same by the date fixed and hence the rejection.

I have heard learned counsel for the parties and I have perused the records of the proceedings and am constrained to observe that the Board of Directors of the Bank which undisputedly consists of high officials was definitely expected to have broader and more humane approach towards the matter and not a conceited one as reflecting in the present case. Where a welfare measure is applied to a case, the technicalities arising should be given a backseat unless it suffers from unexplained laches which is not the case in hand. A negligible delay of two months by the petitioner to deposit the form for ex-gratia payment, has been cited as a reason for its rejection.



The scheme of compassionate appointment/payment of ex-gratia is a beneficial scheme of the Bank and has to be applied with objectivity and not subjectivity. This Court would have expected a little more prudence from the Board of Directors while entertaining the application of a widow who is illiterate and needs to take assistance for raising her claim. Such is the position reflecting from the application at Annexure 1. The revised scheme at Annexure C/A to the counter affidavit while giving reasonable time for an application on compassionate grounds at Clause 6(c) of 12 months, is rather conservative while stipulating the period for ex-gratia application which is to be filed within six months of the death. The period is highly unreasonable and cannot be treated as mandatory stipulation. If the scheme provides that an application for compassionate appointment be filed within reasonable period of 12 months, the same principle is also to be applied in case of payment of ex-gratia because it is in lieu of such compassionate appointment.

Returning to the impugned letter at Annexure 3 which acknowledges the filing of the application on 25.8.2012 which is barely two months from the expiry date fixed on 30.6.2012, that the Board of Directors have already waived the period of six months stipulated under the scheme and allowed the petitioner to file her application after acknowledging the delay, they should have been



more gracious in approach to accept the prayer.

This Court notices the residuary power present at Clause 7 of the scheme at Annexure C/A and which vests power in the Board to condone the delay and if there would be a singular case in which such power is to be exercised let it be done in this case.

Accordingly the respondents more particularly the Chairman and the General Manager of the Uttar Bihar Gramin Bank are directed to process the application of the petitioner for ex-gratia payment which is in lieu of compassionate appointment and take it to its conclusion within a period of three months from the date of receipt /production of a copy of this judgment.

The writ petition is allowed with the direction above.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	29-04-2018
Transmission Date	NA

