

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12811 of 2009

=====

Amit Kumar, son of late Shambhu Saran Prasad, Resident of Village Gobari, Police Station Banjaria, District East Champaran. At present resident of Mohalla Janpur Chauk Bettiah Road, P.S. Town Motihari, Dist. East Champaran.

... .. Petitioner/s

Versus

1. The Uttar Bihar Kshetriya Gram through its Chairman, North Bihar, Patna.
2. The Branch Manager, Uttar Bihar Kshetriya Gramin Bank, Branch Sugauli, East Champaran.
3. The Chairman, Uttar Bihar Kshetriya Gramin Bank Head Office, Kalam Bag Chowk Sharma Complex, Muzaffarpur.

... .. Respondent/s

=====

Appearance :

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

=====

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 01-05-2018

Heard learned counsel for the petitioner and counsel for the Uttar Bihar Kshetriya Gramin Bank.

In this case, the petitioner is claiming appointment on compassionate ground on account of death of her mother in harness.

The mother of the petitioner was an employee in the Kshetriya Gramin Bank as Clerk cum Cashier, she was struck with paralysis, was unable to discharge the duty. She remained under the medical treatment. As the mother of the petitioner remained disabled to perform the duty. The petitioner, being the eldest son, applied for appointment on compassionate ground on account of permanent disablement of his mother, whereupon, the Chairman vide letter dated 227 dated 14.1.2002 called report on merit and justification of the claim of the petitioner, the Chief General Manager-P.R.S., Kshetriya Gramin



Bank vide letter dated 3214 dated 4.2.2002 apprised in detail about merit of the claim of the petitioner, requested the Chairman to give guideline for action. The report was called for by the Chairman of the of the Bank, in response to the Branch Manager, vide letter dated 14.1.2003 (Annexure-3), communicated that there is a bank circular which stipulates that in case of permanent disablement or incapacity, the person can seek premature retirement and he or she can nominate her and successor for appointment on compassionate ground. Looking to the entire facts and circumstances, the case of the petitioner was recommended for appointment on compassionate ground whereupon an affidavit was also filed by the petitioner that on his appointment, he will look after to the entire family. The mother has also filed an affidavit in favour of the petitioner for his appointment also mentioned the economic condition of the family but, in the end, the petitioner was not appointed. Ultimately, the mother of the petitioner has died in the year 2008. In the meantime, the scheme of compassionate appointment changed as it was substituted by grant of ex-gratia payment.

Learned counsel for the petitioner has submitted that the mother of the petitioner has died when the new scheme of compassionate appointment was in force. As per scheme, it has two parts, first part deals with the grant of ex-gratia amount and three conditions have been stipulated for being entitled to the ex-gratia amount and for the compassionate appointment, there are two



circumstances. It is relevant to quote Clause 4 of the scheme which reads as follows:-

“4. (A) The Scheme for grant of ex-gratia will be applicable in the following cases of employees:

(i) Employee dying in harness (other than due to injury sustained while performing official duty as a result of violence, terrorism, robbery or dacoity).

(ii) Employee dying due to injury sustained while performing official duty within or outside office premises (other than due to violence, terrorism, robbery or dacoity and excluding travel from residence to place of work and back).

(iii) Employee seeking premature retirement due to incapacitation before reaching the age of 55 years.

(B) The Scheme of Compassionate Appointment will be applicable in the following cases:

(a) Employee dying while performing his official duty, as a result of violence, terrorism, robbery or dacoity.

(b) Employee dying within five years of his first appointment or before reaching the age of 30 years, whichever is later, leaving a dependent spouse and/or minor children.”

Clause 5 of the aforesaid Scheme deals with the eligibility and procedure for payment of ex-gratia amount. Clause 4A stipulates that the employee dying in harness, other than due to injury sustained while performing the official duty within or outside the premises, may seek ex-gratia payment or premature retirement due to



incapacitation before reaching the age of 55 years but, Clause B deals with the situation of granting compassionate appointment when the employee died while performing the official duty, has died as a result of violence, terrorism, robbery or dacoity and second class of person will be entitled for compassionate appointment in a situation when the employee dies within five years of his first appointment or before reaching 30 years, whichever is later, leaving a dependent spouse and/or minor children.

Thus, on two conditions, which are independent to each other, will be situation for grant of compassionate appointment and rest in a case of person dying in harness will be entitled to the ex-gratia payment but, eligibility and quantum of amount of compensation has been dealt with in Clause-5 of the aforesaid Scheme. That this Court does not feel proper to advert and adjudicate quantum amount.

Learned counsel for the petitioner submits that the financial condition of the petitioner is very bad which is reflected from the earlier report (Annexure-3) which stipulates the financial condition of the petitioner but learned counsel for the Bank has vehemently opposed for grant of relief of ex-gratia payment to the petitioner.

Admittedly, in this case, the mother has died in harness on 5.5.2008 and, certainly, under the Scheme, the petitioner will be governed by that relief of ex-gratia payment as there is no case that the mother has died while discharging the duty and died on account of



violence, terrorism, robbery or dacoity nor it is a case that she has died within five years of her service or before reaching the age of 30 years.

In that view of the matter, this Court does not have any hesitation or any confusion in giving direction to the Bank to pay the ex-gratia amount as per Scheme. The Chairman of the Bank is directed to ensure the payment of ex-gratia to the petitioner after examining the condition laid down in the 2005 Scheme.

All the process must be completed within a period of six months from the date of receipt/production of a copy of this order.

In the result, this writ application stands allowed to the extent indicated above.

(Shivaji Pandey, J)

rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.05.2018
Transmission Date	NA

