

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 830 of 2010**

Smt. Manjula Patel, W/o Late Shri R.K. Patel, Aged about 61 years, R/o Infront of mandi Gate New Khadi Bhandar, Pandri, Raipur, Distt. Raipur (C.G.)

---- **Petitioner****Versus**

1. General Manager (HRM), Dena Bank, Human Resource Department, Dena Bank, Dena Corporate 3rd Floor Plot no. C-10 G Block Bandra Kurla Complex Bandra (East), Mumbai
2. Dena Bank, Regional office, Near Khaadi Bhandar, Pandri Tarai, Raipur, Distt. Raipur (C.G.)

---- **Respondents**

For Petitioner : Mr. Goutam Khetrapal, Advocate.
For Respondents : Mr. Vinod Deshmukh, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****10/01/2018**

(1) Husband of the petitioner namely Shri R.K. Patel died in harness on 9.8.2001. The petitioner made an application for grant of compassionate appointment of her son on 27.08.2001 as per policy applicable at the time of death of her husband.

(2) Learned counsel for the petitioner would submit that the petitioner's case was not considered as per policy which was enforced on the date of death of her husband and her case has been considered for grant of *ex gratia* under the policy brought into force with effect from 12.10.2004 and her application for grant of *ex gratia* in lieu of appointment on compassionate grounds has also been rejected, which

is bad and unsustainable in law as neither compassionate appointment nor amount of *ex gratia* has granted to the petitioner.

(3) Per contra, counsel for the respondents-Bank, while supporting the impugned order, would submit that the order impugned order is strictly in accordance with law, which does not call for any interference.

(4) I have heard learned counsel appearing for the parties and considered their rival submissions made hereinabove and also gone through the record with utmost circumspection.

(5) In the matter of ***Abhishek Kumar Vs. State of Haryana & others***¹, their Lordships of the Supreme Court have held that the application for compassionate appointment is required to be considered in terms of the rule, which were in existence at the time of death of the concerned Government employee.

(6) In the matter of ***Govind Prasad Vs. R.G. Parsad and others***², it has been held by their Lordships of Supreme Court that an executive order of the Government cannot be made operative with retrospective effect. The paragraph 11 of the report states as under:-

“11. It is settled law that an executive order of the Government cannot be made operative with retrospective effect....”

(7) The same proposition has been reiterated by the Supreme Court in the matter of ***Canara Bank and another Vs. M. Mahesh Kumar***³.

(8) A careful perusal of the impugned order would show that the petitioner's case was considered in light of the scheme introduced on 12.10.2004 whereas she is entitled to be considered as per policy,

1 (2006) 12 SCC 44

2 (1994) 1 SCC 437 11

3 (2015) 7 SCC 412

which was in force on the date of death of her husband i.e. 9.8.2001. Therefore, the impugned order dated 10.10.2009 is liable to be and is hereby set aside. The respondents- Bank is directed to consider the case of the petitioner for compassionate appointment as per policy which was in force and applicable on 9.8.2001 within a period of 45 days from the date of receipt of certified copy of this order. The petitioner is at liberty to make additional representation, if any.

(9) The writ petition is allowed to the extent indicated hereinabove.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-

