

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 25-10-2018

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.10790 of 2013

Ummakani Begum

.. Petitioner

..Vs..

1.Managing Director,
Indian Overseas Bank,
Anna Salai,
Chennai-600 002.

2.The Regional Manager,
Indian Overseas Bank,
Regional Office,
East Cart Street,
Thoothukudi,
Post and District.

.. Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India for the issuance of a Writ of Mandamus, directing the respondents to consider the petitioner's representation dated 20.12.2006, 15.3.2013 and 23.3.2013.

For Petitioner : Mr.V.Raghupathi

For Respondents : Mr.K.Srinivasamurthy

ORDER जयते

The relief sought for in the present writ petition is for a direction to direct the respondents to consider the representations submitted by the writ petitioner on 20.12.2006, 15.3.2013 and 23.3.2013 respectively.

2. The grievance of the writ petitioner is that the husband of the writ petitioner was employed in the second respondent-Bank and passed away while he was in service on 28.6.2006. On account of the sudden demise of the husband of the writ petitioner, the family of the writ petitioner was in penurious circumstances and the writ petitioner was unable to meet out her day-to-day expenditures. Thus, the writ petitioner

submitted an application, seeking appointment on compassionate grounds. The application submitted by the writ petitioner was not considered by the respondents. Thus, the writ petitioner is constrained to move the present writ petition, seeking the relief of appointment on compassionate grounds.

3. The learned counsel, appearing on behalf of the respondents, made a submission that the Scheme of compassionate appointment was not in force during the relevant period of time i.e., in the year 2006. It is contended that the Scheme of compassionate appointment was reintroduced by the respondent-Bank only in the years 2010 and 2011. Therefore, the case of the writ petitioner was not considered by the respondents.

4. The learned counsel for the writ petitioner has stated that during the period from 2004 to 2010, the Scheme for payment of Ex-Gratia amount in lieu of appointment on compassionate grounds was in force. Thus, the writ petitioner is entitled to get Ex-Gratia amount as per the said Scheme.

5. The learned counsel for the respondents objected the said contention of the learned counsel for the writ petitioner, by stating that the Scheme of Ex-Gratia amount is to be applied within a period of six months. However, this Court is of an opinion that the writ petitioner has submitted an application, seeking appointment on compassionate grounds, within the period of six months.

6. The writ petitioner, being a widow of the deceased employee, was not aware of the fact that the Scheme of compassionate appointment was not in force. In such circumstances, the respondents are duty bound to inform the aggrieved persons that they are entitled only for Ex-Gratia amount in lieu of appointment on compassionate grounds. Even in case of mistake by the affected persons, the benefit granted under the Scheme cannot be denied. Such cases are to be considered sympathetically by the respondent-Bank in view of the fact that the employee died while in service and on account of the sudden death of the employee, the family of the deceased employee was in indigent circumstances.

7. This Court is of an opinion that the application submitted by the writ petitioner for compassionate appointment shall be converted as an application for payment of Ex-Gratia amount in lieu of appointment on compassionate grounds.

8. In this view of the matter, the writ petitioner is not entitled for compassionate appointment. However, the writ petitioner is entitled for the benefit of Ex-Gratia amount in lieu of appointment on compassionate grounds issued in Reference

No. EST/36/2004-05 dated 4.10.2004

9. The learned counsel for the respondents brought to the notice of this Court that the Chief Manager, Personnel Administration Department of Indian Overseas Bank, Central Office, 763, Anna Salai, Chennai-600 002, informed the writ petitioner in proceedings dated 22.4.2013, stating that the application for lump sum Ex-Gratia should be submitted within one year from the date of death of the husband of the writ petitioner. Since the husband of the writ petitioner expired on 28.6.2006 and submitted the request for payment of Ex-Gratia belatedly, the respondent-Bank is declined to consider the request of the writ petitioner.

10. This Court is of an opinion that the Ex-Gratia payment is a concession shown to the beneficiaries on account of the sudden death of the earning member of the family. Therefore, such a strict adoption of law is to be avoided and the Scheme is formulated only to help the families to come out from the penurious circumstances.

11. This being the very purpose and object of the Scheme, this Court is of an opinion that a lenient view is to be taken and the writ petitioner should be paid the Ex-Gratia amount in lieu of the compassionate appointment as per the Scheme.

12. Considering the peculiar circumstances of this case, this Court is inclined to grant the following reliefs:-

(i) The order dated 22.4.2013 issued by the respondent-Bank in proceedings PAD/178/CL(T)/64/2013-14 dated 22.4.2013 shall stand set aside;

(ii) The writ petitioner is directed to submit a fresh application along with the required documents, as per the Scheme, to the respondent-Bank, within a period of four weeks from the date of receipt of a copy of this order;

(iii) On receipt of any such application from the writ petitioner, the respondents are directed to consider the same favourably as per the Scheme and pass orders to that effect, within a period of eight weeks thereafter, without taking into consideration the limitation prescribed in the Scheme;

(iv) The present writ petition is considered on peculiar facts and circumstances and therefore, the same cannot be cited as a precedent for any other case.

13. Accordingly, the writ petition stands disposed of.
However, there shall be no order as to costs.

Sd/-
Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

Svn

To

1. Managing Director,
Indian Overseas Bank,
Anna Salai,
Chennai-600 002.

2. The Regional Manager,
Indian Overseas Bank,
Regional Office,
East Cart Street,
Thoothukudi,
Post and District.

+1cc to Mr.V.Raghupathi, Advocate, S.R.No. 73692
+1cc to Mr. NGR Prasad, Advocate, S.R.No. 73678

WP No.10790 of 2013

VGII (CO)
GN(14/11/2018)

सत्यमेव जयते

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