

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2018

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HON'BLE MR.JUSTICE P.VELMURUGAN

W.A.No.2563 of 2013
and
M.P.No.1 of 2013

State Bank of India rep.
By its Deputy General Manager
Personnel & HRD Section,
Zonal Office,
MC Donalds Road
Tiruchirapalli-620 001.

....Appellant

Vs

1. Mrs.Kumudhini Sudhakar
2. Mr.A.Sasidharan

....Respondents

Prayer:- Writ Appeal filed under Clause 15 of Letter Patent Act,
to set aside the impugned order dated 26.02.2013 passed in
W.P.No.21733 of 2004.

WP.NO.21733/2004:

filed Under Article 226 of Constitution of India praying for the
issuance of Writ of Certiorarified Mandamus calling for the
records relating to the order dated 04.05.2004 bearing
No.DGM:PER:No:415 and quash the same and consequently direct the
respondent to consider the application dated 09.10.2002 for
compassionate appointment in accordance with law.

For Appellant : Mr.Rajnish Pathiyil

For Respondents : Mr.BalanHaridass

JUDGMENT

(Judgment of the Court was delivered by K.K.SASIDHARAN, J.)

The application submitted by the respondents for compassionate appointment was rejected by the appellant on the ground that the respondents were not qualified for such appointment, in view of the scheme framed by the bank. The Writ Petition filed by the respondents was allowed by the learned single Judge, primarily on the ground that terminal benefits received by the family on account of the death of the bread winner cannot be taken for deciding the eligibility for compassionate appointment. The said order is under challenge in this intra court appeal.

2. We have heard the learned counsel appearing on behalf of the appellant and the learned counsel for the respondents. We have also perused the scheme in question.

3. The scheme contains certain conditions to be taken note of by the bank before giving employment on compassionate basis. Clause 6(1) of the scheme indicate the factors to be considered for deciding the financial condition of the family, which reads as follows:

"6. (1) Financial Condition of the Family

Appointments in the public services are made strictly on the basis of open invitation of applications and merit. However, exceptions are made in favour of dependents of employees dying in harness and leaving their family in penury and without any means of livelihood. Determining the financial condition of the family is, therefore, an important criterion for deciding the proposals for compassionate appointment. The following factors should be taken into account for determining the financial condition of the family:

- i. family pension.
- ii. gratuity amount received
- iii. employee's/employer's contribution to PF
- iv. any compensation paid by the Bank or its Welfare fund
- v. Proceeds of LIC policies and other investments of the deceased

employee.
vi. Income of family from other sources.
vii. Income of other family members from employment, or other sources:
viii. size of the family and verifiable liabilities, if any."

4. The scheme framed by the bank is not under challenge. The bank, taking into consideration the family pension, gratuity and other benefits, arrived at a conclusion that the respondents are not eligible for compassionate appointment. The learned single Judge, notwithstanding the terms and conditions of the scheme directed the appellant to give compassionate appointment to the second respondent. When the scheme itself provides for certain conditions to be complied with for giving compassionate appointment, it is not correct to state that notwithstanding such scheme, the family is entitled to compassionate appointment. We are therefore, of the view that the learned single Judge was not correct in allowing the Writ Petition.

5. The order passed by the learned single Judge, dated 26 February 2013 is set aside. The Writ Petition in W.P.No.21733 of 2004 is dismissed.

6. The intra Court appeal is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

+ 1 cc to Mr.Rajnish Pathiyil Advocate,SR.12113

+ 1 cc to Mr.BalanHaridass Advocate,SR.11570

W.A.No.2563 of 2013

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