

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20190 of 2011

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Animesh Raj, son of late Nawal Kishore Sinha, resident of Kishore Bhawan,
Trigun, At and Po- Dehri on Sone, Distt- Rohtas.

... .. Petitioner

Versus

1. UCO BANK through its Chairman, 12 Old Court House Road, Kolkatta-700001.
2. Charman, UCO Bank, 12 Old House Street, Kolkatta-700001.
3. General Manager, Personnel Administrative Department, UCO Bank, 12 Old Court House Road, Kolkatta-7000001
4. Chief Manager, Man Power and Planning, 12old Court House Road, Kolkatte-7000001.
5. Zonal Manager, Zonal Office, Maurya Lok Complemx, 4th Floor, New Dak Bunglow Road, Patna.1

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr. A.B. Ojha, Sr. Advocate Mr.. Awdhesh Kumar Mishra, Advocate Mr. Nitesh Kumar, Advocate Mrs. Rita Rai, Advocate
For the Respondent/s	:	Mr. Ranjeet Kumar Pandey, Advocate

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date : 17-05-2019

By way of this petition, the petitioner has prayed
for the following reliefs:-

“That this is an application for issuance of appropriate writ, order or direction on the respondents to appoint the petitioner on compassionate ground whose request for appointment in the Bank has been turned down on the basis of circular of 21.9.1999 whereas the petitioner father died during the



service of the Bank on 30.11.1994 and the application for compassionate appointment was submitted on 28.12.1994. The respondent no.3 by letter dated 9.9.1995 assured the petitioner to appoint him on attaining majority. The petitioner attained his majority on 20.8.2004 but his application for appointment was refused on the ground that the petitioner has approached after 3 years from attaining majority and vacancy can not exists for such a long period although the application was pending under consideration and no information was given.”

2. Thereafter, the petitioner has been filed Interlocutory Application vide I.A. No. 02 of 2019, in which the petitioner has challenged the order of communication dated 14.09.2007, bearing no. PER/MPTP/1136/2007, whereby and whereunder the request for grant of compassionate appointment has been rejected having been held that the petitioner is neither eligible for compassionate appointment nor for payment of lump sum in lieu thereof.

3. The short facts of this case are that late Nawal Kishore, father of the petitioner, was working as Clerk-cum-Assistant in the UCO Bank, was posted at Kendua Branch of



UCO Bank, Gaya, died on 30.11.1994 during his service period. He left behind his ailing widow Smt. Saya Devi besides one minor daughter and two minor sons. The widow of the deceased submitted an application on 28.12.1994 to the Zonal Manager, UCO Bank, requesting that her son, namely, Master Animesh Raj may be appointed in the service of UCO Bank on compassionate ground after attaining the majority. The said application was submitted within one year after the death of Nawal Kishore, father of the petitioner. The Chief Manager, Man Power and Planning addressed the same to the Zonal Manager, Zonal Office, Patna, wherein he has recognized the letter dated 24.07.1995 forwarded by Patna Zonal Office, wherein request was made for marking lien over employment to Master Animesh Raj. The request was accepted, in terms of Circular dated 10.05.1993 the lien was marked for appointment on attaining the majority, subject to his fulfillment of eligibility criteria as per the scheme. Accordingly, vide letter no. 436 dated 09.09.1995 the mother of the petitioner was informed that the case of his son namely, Master Animesh Raj for appointment in the Bank has been recorded in the records of the Bank, accordingly was marked and it has been mentioned that recruitment on compassionate ground would be considered on



attaining majority. It has further been mentioned that her son will be attaining the majority on 20.08.2005. After three years of attaining the majority he has applied for appointment on compassionate ground. His application vide letter dated 16.02.2007 was forwarded by Kendua Branch, Gaya, to Patna for needful, accordingly, the Assistant General Manager, vide letter dated 07.04.2007 forwarded the application of the petitioner, stating that the application filed by the petitioner for compassionate appointed was taken into consideration and the lien was marked. The Chief Manager in his letter dated 29.09.2007 addressed letter to the General Manager, Personnel Services Department, UCO Bank, Head Office-2, Kolkata, enclosed the letter dated 28.08.1995, mentioning about marking of lien for appointment of petitioner on compassionate ground, subject to fulfillment of eligibility criteria.

4. At the initial stage, the impugned order, by which the request for appointment on compassionate ground has been rejected, was not attached with the writ petition and now it has been brought for the first time through I.A. No. 02 of 2019.

5. The Bank has filed the counter affidavit, in which the stand has been taken that the lien was marked in terms of the Circular dated 10.05.1993 to provide a suitable job to the



petitioner on attaining the majority subject to fulfillment of eligibility criteria under the scheme. The scheme has been brought by the petitioner, wherein it has been mentioned that the application for compassionate appointment would be considered provided the person has acquired requisite qualification within four years of the death of the bank employee. So, as per Circular dated 10.05.1993, wherein it has been mentioned, the application within four years from the date of death of the Bank employee will be considered subject to fulfillment of all criteria laid down for appointment on compassionate ground. It has further been stated that the petitioner has attained the majority on 20.08.2004 whereas he has filed application after expiry of three years i.e. on 16.02.2007. New Circular dated 21.09.1999 has been framed, mentioning revised scheme for recruitment of dependent of deceased employee on compassionate ground, wherein one of the conditions has been attached that the application should be received within one year from the date of death of the employee. In the event, death has occurred on or after 1st May, 1996, if the application for appointment on compassionate ground has not been filed, should be filed within three months from the date of Circular of the revised scheme. In Clause 5 (ii) stipulation has been mentioned, where the



dependent is a minor or does not possess suitable minimum qualification, his / her case would be considered at the discretion of the bank within four years of the death of the employee to enable him/her to qualify in terms of age and/or qualification provided that the nomination has been received by the Bank within one year from the date of death of the employee and the documentary evidence of date of birth of the minor is submitted. Clause- 6 (a) stipulates that where the dependent is minor or does not possess minimum qualification, his/her case may be kept open at the discretion of the ED/CMD for 4 years from the date of death of employee to enable him/her to qualify in terms of age and/or qualification, provided the application is received by the Bank within one year from the date of death of the employee.

6. It will be relevant to quote Clause- 5(ii) and Clause-6 (a) of Circular dated 21.09.1999, which read as under:-

5(ii) where the dependent is a minor or does not possess suitable minimum qualification, his/her case can be considered at the discretion of the Bank within four years of the death of the employee to enable him/her to qualify in terms of age and/or qualification provided that the nomination



has been received by the Bank within one year from the date of death of the employee and documentary evidence of date of birth of the minor is submitted.

6(a) Where the dependent is minor or does not possess minimum qualification, his / her case may be kept open at the discretion of the ED/CMD for 4 years from the date of death of employee to enable him/her to qualify in terms of age and/or qualification, provided the application is received by the bank within one year from the date of death of the employee.”

7. It has further been averred in the counter affidavit that admittedly when the father of the petitioner has died he was minor, he attained the majority in the year 2004, whereas the application has been filed by the petitioner for compassionate appointment after three years on attaining the majority, so the petitioner has attained the majority after 10 years of death of his father and he approached this Court after 17 years of death of his father and at present more than 21 years has already passed, so the purpose of granting compassionate appointment is no longer survive. It has further been averred that the petitioner, at one stage, has filed an application for withdrawal of his claim for appointment on compassionate ground and requested the



authority to consider the appointment of his younger brother on compassionate ground.

8. In reply, the petitioner has taken stand that after the death of his father, his mother has entered into the second marriage, left the family in lurch and his uncle was appointed as his guardian by the Court, so always they remain under financial constraint on account of second marriage of his mother.

9. Learned counsel for the petitioner has placed reliance on the judgment rendered in the case of *A.A. Calton vs. The Director of Education and Another* reported in *1983 SCC (3) 280*; judgment of the Bombay High Court rendered in case of *Mahesh Singh Bisht vs. Canara Bank (Writ Petition No. 1603 of 2012)* and *Canara Bank Vs. M. Mahesh Kumar*, reported in *AIR 2015 SC 2411*.

10. By way of filing supplementary counter affidavit, the petitioner has brought Circular of 2014, dealing with the condition, criteria and eligibility for appointment on compassionate appointment. The new Circular also attaches the condition that the application for employment under the scheme from eligible dependent would normally be considered upto five years. Admittedly, the father of the petitioner has died in the



year 1994 and after 10 years he attained the majority and three years thereafter application has been filed, as on today, more than 24 years has already passed. The compassionate appointment has its purpose, is not a source of appointment, same is given when the bread winner dies and there is a dire instant need of the financial support to the family so that the family would tied over the financial crises. Reliance can be place to the following judgments of the Hon'ble Supreme Court:-

(i) ***Umesh Kumar Nagpal v. State of Haryana, 1994 (4) SCC 138.***

(ii) ***Life Insurance Corporation of India vs. Asha Ram Chandra Ambekar and Ors.*** reported in ***1994 (2) SCC 718.***

(iii) ***A. Umarani vs. Registrar, Cooperative Societies and Ors.*** reported in ***2004 (7) SCC 112.***

(iv) ***Principal, Mehar Chand Polytechnic vs. Anu Lamba and Ors.*** reported in ***2006(7) SCC 161.***

(v) ***State Bank of India and Ors. vs. Somvir Singh*** reported in ***2007 (2) Supreme Today 336.***

(vi) ***State Bank of India and Ors. vs. Jaspal Kaur*** reported in ***2007 AIR SCW 1044.***



(vii) *State of Himachal Pradesh and Ors. vs. Parkash Chand* reported in 2019 (4) SCC 285.

11. In the present case, the petitioner is seeking appointment under the Circular of 1993. The terms of the Circular of 1993 for compassionate appointment is as follows:-

“यदि नियोजन के लिए प्रायोजित परिवार का सदस्य किसी प्रकार की शैक्षणिक योग्यता प्राप्त करने के लिए कुछ समय चाहता/चाहती है तो उसके मामले पर विचार किया जा सकता है बशर्ते वह निर्धारित अवधि कर्मचारी की मृत्यु के चार वर्ष के भीतर ही हो।”

12. The aforesaid scheme itself shows that the consideration for appointment on compassionate ground can be kept in abeyance for four years from the date of death of bread earner, if the dependent of the deceased employee will be able to secure the necessary qualification, in such circumstance, the claim would be considered by the Bank. The Circular of 1999 as well as 2014 itself prescribe the outer limit, provided that the person must possess the requisite qualification within four years or five years of the death of the bread earner, it cannot be left for indefinite period, otherwise the purpose itself would be defeated and the grant of solace by way of appointment is the theme for grant of compassionate appointment would be defeated after lapse of so many years.



13. The judgments relied upon by learned counsel for the petitioner has no application to the facts of this case.

14. In such view of the matter after such a long period, in result, this Court cannot give any direction to the respondent authorities for appointment of petitioner on compassionate ground. This Court does not find any merit in this writ petition, accordingly, the same is dismissed.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	20.05.2019
Transmission Date	

