

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :24.09.2019
CORAM
THE HON'BLE MR.JUSTICE M.DHANDAPANI
W.P.No.15471 of 2019

M.Balamurugan

..Petitioner

vs

- 1.Indian Overseas Bank,
Rep. by its Chief Executive Officer,
Managing Director,
Central Office, 763, Anna Salai,
Chennai - 600 002.
- 2.The Assistant General Manager,
Human Resources Management Department,
Indian Overseas Bank,
Central Office, 763, Anna Salai,
Chennai - 600 002.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned letter bearing Ref: HRMD/178/CL/48/2018-19 dated 04.03.2019 passed by the 2nd respondent and quash the same and consequently direct the respondents herein to consider the claim of the petitioner for providing compassionate appointment or for payment of ex-gratia amount as per the Scheme notified vide circular 28.03.2015 to the petitioner within a time frame.

For Petitioner : Mr.K.M.Ramesh

For Respondents : Mr.V.Kathirvelu
Special Government Pleader

O R D E R

The prayer sought for in this Writ Petition is to call for the records relating to the impugned letter bearing Ref: HRMD/178/CL/48/2018-19 dated 04.03.2019 passed by the 2nd respondent and quash the same and consequently direct the respondents herein to consider the claim of the petitioner for

providing compassionate appointment or for payment of ex-gratia amount as per the Scheme notified vide circular 28.03.2015 to the petitioner within a time frame.

2. The case of the petitioner is that his father was working as Shoroff/Godown Keeper in the 1st respondent Bank. While in service, the petitioner's father died on 10.05.2006. The petitioner applied for compassionate appointment in the year 2006 itself. However, the same was not considered on the ground that no scheme for compassionate appointment was existing. In the year 2014, the respondents Bank pursuant to the Government of India's direction evolved a scheme for Compassionate appointment. Thereafter, the petitioner applied for compassionate appointment as per the new scheme by making representation dated 25.02.2019. The same has been rejected by the 2nd respondent by its letter dated 04.03.2019 on the ground that at the time of demise of the petitioner's father, no scheme was existed. Hence the Writ Petition has been filed.

3. Mr.K.M.Ramesh, learned counsel for the petitioner would submit that though the scheme for compassionate appointment was not available at the relevant point of time, however, as per the scheme for appointment on compassionate appointment, the application for employment under the Scheme from eligible dependent should normally be considered upto five years from the date of death or retirement on medical grounds and decision to be taken on merits in each case. The said clause would further go on to state that the Bank can consider the request for compassionate appointment even when the death or retirement on medical grounds of the employee took place a long ago. While considering the belated requests, the poverty level of the family of the deceased employee should be considered. However, in the present case, the clause has not been considered and without considering the said clause, the impugned order dated 04.03.2019 has been passed. Therefore, he prayed this Court to allow the Writ Petition.

4. Mr.V.Kathirvelu, learned Special Government Pleader appearing for the respondents bank would submit that though the petitioner made an application in the year 2006 itself, the scheme for providing compassionate appointment came into existence only in the year 2014. Thereafter, the petitioner made an application in the year 2019 after expiry of 5 years. Hence the application could not be considered on the ground of laches.

5. Heard the counsel and perused the records.

6. A reading of clause 5.3 of the Scheme for appointment on compassionate would reveal that though the respondents Bank can entertain the application even 5 years after the death of the employee, however, economic distress of the family of the deceased employee should be considered. The scheme was introduced in the year 2014 and the petitioner made an application on 25.02.2019, after a lapse of 5 years. Hence, this Court easily presumes that there is no distress condition prevails in the family of the deceased employee. In the absence of any material to show the economic status of the family of the deceased employee, this Court cannot interfere with the impugned order dated 04.03.2019 in a mechanical manner. However, the order of this Court will not stand in the way of the petitioner to make a representation for getting ex-gratia amount, if it is applicable. The Writ Petition is dismissed with above observation. No costs.

Sd/-

Asst.Registrar (Insp Cell)

/true copy/

Sub Asst. Registrar

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To

1.Indian Overseas Bank,
Rep. by its Chief Executive Officer,
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2.The Assistant General Manager,
Human Resources Management Department,
Indian Overseas Bank,
Central Office, 763, Anna Salai,
Chennai - 600 002.

+1 cc to Mr.Ramesh Advocate sr82168

+1 cc to Mr.Kadirvelu Advocate sr 82107

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