

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 24.07.2019

CORAM:

THE HONOURABLE **MR. JUSTICE S.M.SUBRAMANIAM**

WEB COPY

W.P. (MD) No.1020 of 2014**and****M.P (MD) No.1 of 2014**

P.Vijayshanthi

... Petitioner

Vs.

1.The General Manager,
Union Bank of India,
Regional Office, Chennai.

2.The Manager (HRM),
Union Bank of India,
Regional Office, Madurai.

3.The Branch Manager,
Union Bank of India,
Uthamapuram Branch,
Theni District.

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents herein to disburse the entire death-cum-terminal benefits and other monetary benefits accrued to the service of the petitioner's father late N.Palanichamy, employed as Daftary in the third respondent bank died on 12.08.2008 to the petitioner within a reasonable time.

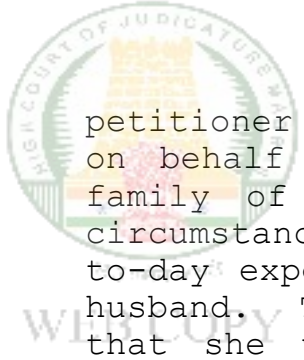
For Petitioners : Mr.H.Thayumanaswamy,

For Respondents : Mr.R.P.Ramachandran

ORDER

The relief sought for in the present writ petition is for a direction to direct the respondents to disburse the entire death-cum-terminal benefits and other monetary benefits accrued to the service of the petitioner's father late N.Palanichamy, employed as Daftary in the third respondent bank died on 12.08.2008, to the petitioner.

<https://hcservices.ecourt.gov.in/usercase>
2. The assistance of the writ petitioner is that her father was employed as Daftary in the Union Bank of India and died on 12.08.2008 while he was in service. The mother of the writ



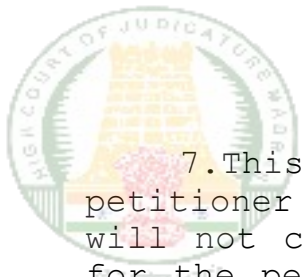
petitioner pre-deceased her father. The learned counsel appearing on behalf of the writ petitioner strenuously contended that the family of the writ petitioner is in distress and in penurious circumstances. The writ petitioner is unable to meet out the day-to-day expenditure of the family as she has been deserted by her husband. The petitioner states that after obtaining an undertaking that she will not claim appointment on compassionate ground on 09.09.2010, the Union Bank Employees' Union, Tamil Nadu issued a letter on 5th September, 2010 stating that the case of the writ petitioner will be considered for grant of ex-gratia amount of Rs.6,00,000/- in lieu of the compassionate appointment to be provided under the Scheme. However, the said amount has not been paid by the Bank.

3. The respondents opposed the contentions by stating that the letter sent by the employees Union cannot have any binding effect in respect of the Bank is concerned. Based on the Union Bank Employees' letter, the Bank cannot settle the ex-gratia amount and the Bank has to verify the eligibility as well as the terms and conditions as applicable for grant of ex-gratia payment in lieu of compassionate appointment.

4. As far as the terminal benefits are concerned, the entire amount due to the deceased employee had already been settled in favour of the writ petitioner near about Rs.4,58,100/- and the writ petitioner has also acknowledged the receipt of the said amount. Thus, the terminal and other benefits due to the deceased employee had already been settled.

5. As far as the compassionate appointment is concerned, the scheme has to be implemented strictly in accordance with the terms and conditions. Compassionate appointment is a concession. Thus, the scheme cannot be claimed as a matter of legal right. The scheme of compassionate appointment is a non statutory special scheme, which is to be implemented strictly in accordance with the terms and conditions. Equal opportunity in public employment is the constitutional mandate. While extending the benefit of compassionate appointment, the employer is not conducting any process of selection or assessing the comparative merit of the candidates. Thus, the scheme of compassionate appointment itself is in violation of Article 14 & 16 of the Constitution of India. However, such welfare schemes are implemented by the Nationalised Bank in order to provide relief to the family in distress on account of the sudden death of the bank employees. In other words, the very purpose and object of the scheme is to mitigate the circumstances arising on account of the sudden death of an employee while in service.

6. Lakh and Lakh of young people are burning their midnight lamps and working hard for securing public employment by participating in the open competitive process. Thus, equality clause enunciated in the Constitution scrupulously followed by the competent authority while undertaking the process of selection for appointments in Bank services.



7. This Court is of the considered opinion that the writ petitioner has already given an undertaking on 09.09.2010 that she will not claim any compassionate appointment. The learned counsel for the petitioner states that such a letter was obtained forcibly by stating the petitioner would be sanctioned ex-gratia payment in lieu of such compassionate appointment. However, there is no document to establish that any such promise was given by the respondent Bank or the competent authority of the respondent Bank. Contrarily, the petitioner states that the Employees' Union had discussed the issue with the Management and thereafter, gave a letter. Such letter given by the Employees' Union cannot be a ground for granting ex-gratia payment. The competent authorities are bound to implement the terms and conditions and if the petitioner is otherwise eligible in accordance with the scheme, she may be considered for grant of ex-gratia payment and not otherwise.

8. In the present case on hand, the learned counsel appearing on behalf of the respondents states that the writ petitioner is not eligible for ex-gratia payment as even at the time of death of the deceased employee, she was a married daughter and constituted a separate family. A married daughter cannot be considered as a dependent of the deceased employee and therefore, the scheme of compassionate appointment or the payment of ex-gratia cannot be considered. The development occurred in the family of the writ petitioner after the death of the deceased employee cannot be a criteria or ground for grant of ex-gratia payment by the Management in violation of the terms and conditions of the scheme.

9. This being the factum, this Court is of the considered opinion that the writ petitioner had already been received the terminal benefits due to the deceased employee as she is the sole legal heir. Neither the scheme of compassionate appointment nor ex-gratia payment can be considered in violation of the terms and conditions. The respondents/bank authorities are directed to verify the service records of the deceased employee once again and find out if any arrears are due to him and if at all any payment is due to the deceased employee including the allowance or ex-gratia or other payments and if the writ petitioner is eligible, then, such amount can be settled as expeditiously as possible.

10. In view of the above observations, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

/ True Copy /



+1 CC to M/s.R.P.RAMACHANTHIRAN, Advocate
(SR-77325[F]dated 24/07/2019)

+1 CC to M/s.H.THAYUMANASWAMY, Advocate
(SR-77657[F] dated 25/07/2019)

W.P. (MD) No.1020 of 2014
24.07.2019

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