

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP NO. 16139 of 2019(O&M)
DATE OF DECISION : 23.07.2019**

Shanti Devi

... Petitioner

versus

State Bank of India & Anr.

... Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Sunil Kumar Bhardwaj, Advocate,
for the petitioner.

ARUN MONGA, J.

Challenge herein, inter alia, is to an order dated 12.04.2002 (Annexure P-4), whereby petitioner's request for being considered to be appointed on compassionate grounds, has been declined owing to her having reasonable sources of income to sustain.

2. In an earlier round of litigation instituted before this Court vide CWP No. 2601 of 2004, this Court vide an order dated 30.09.2005 (Annexure P-5) directed the respondent Bank to consider the claim of the petitioner for compassionate appointment. The respondent Bank assailed the said order of this Court by way of SLP before Hon'ble the Supreme Court and vide an order dated 13.02.2007(Annexure P-6) it was held that this Court ought not to have interfered with the findings and conclusions arrived at by the Bank that the petitioner was not living hand to mouth. The Apex Court while allowing the appeal of the Bank and setting aside the order of this Court observed that provisions in the scheme meant for compassionate appointment is an exception carved out to the general rule that recruitment

to public services is to be made in a transparent and accountable manner providing opportunity to all eligible persons to compete and participate in the selection process. One such exception, however, is in favour of the dependent on an employee who dies in harness, leaving his family in penury for lack of livelihood. The entire object of granting compassionate employment, thus, is to enable the family to tide over the immediate crises. The object is not to give a member of such family a post much less a post equivalent to the one held by the deceased employee. The Apex Court summoned up as below:-

“The Competent Authority while considering the application had taken into consideration each one of those factors and accordingly found that the dependents of employee who died in harness are not in penury and without any means of livelihood. The Authority did not commit any error in taking the terminal benefits and the investments and the monthly family income including the family pension paid by the bank into consideration for the purposes of deciding as to whether the family of late Zile Singh had been left in penury or without any means of livelihood. The scheme framed by the appellant-Bank in fact mandates the Authority to take those factors into consideration. The Authority also did not commit any error in taking into consideration the income of the family from other sources viz. The agricultural land.

In our considered opinion the High Court itself could not have undertaken any exercise to decide as to what would be the reasonable income which would be sufficient for the family for its survival and whether it had been left in penury or without any means of livelihood. The only question the High Court could have adverted itself is whether the decision making process rejecting the claim of the respondent for compassionate appointment is vitiated? Whether the order is not in conformity with the scheme framed by the appellant-

Bank? It is not even urged that the order passed by the Competent Authority is not in accordance with the scheme. It is well settled that the hardship of the dependent does not entitle one to compassionate appointment de hors the scheme or the statutory provisions as the case may be. The income of the family from all sources is required to be taken into consideration according to scheme which the High Court altogether ignored while remitting the matter for fresh consideration by the appellant Bank. It is not a case where the dependents of the deceased employee are left 'without any means of livelihood' and unable to make both ends meet. The High Court ought not to have disturbed the findings and the conclusion arrived at by the appellant-Bank that the respondent was not living hand to mouth. As observed by this Court in General Manager(D&PB) and others Vs. Kunti Tiwary and anr [(2004) 7 SCC 271], the High Court cannot dilute the criteria 'of penury to one of' "not very well-to-do". The view taken by the Division Bench of the High Court may amount to varying the existing scheme framed by the appellant-Bank. Such a course is impermissible in law."

In the aforesaid litigation background, petitioner yet again approached respondent Bank vide an application dated 03.01.2014 seeking employment for her son on compassionate grounds giving illustrations of one Tek Chand who had died in harness and his son had been accorded the benefit of compassionate appointment.

The petitioner claims that as per information gathered by her subsequent to the Apex Court judgment, *ibid* in certain other cases the respondents had been giving compassionate employment to the dependent of the deceased employee by ignoring their family income. Yet the petitioner's case has not been dealt with on parity with others. Having

waited for compassionate appointment the petitioner did not find any way out, she also applied for *ex gratia* lump-sum payment vide her application dated 17.07.2017(Annexure P-13), instead of seeking benefit of compassionate appointment. Even the same was rejected vide impugned order dated 29.09.2017(Annexure P-14) on the ground she was not eligible for *ex gratia* compensation. Yet again petitioner requested that if compensation is not being granted to her, her request for compassionate appointment be considered which too was declined vide order dated 03.03.2018(Annexure P-16). Hence, the second writ petition seeking the same relief, which has already been declined by Hon'ble the Supreme Court, as stated hereinabove.

To my mind, firstly in view of the decision of Apex Court specifically rejecting the claim of the petitioner for compassionate appointment, she cannot re-agitate the same claim before this Court, even if it is on the ground of discrimination. Speaking of discrimination, the facts and circumstances of each case for compassionate appointment being different, it is difficult to say that there is similarity between the petitioner's financial status vis-a-vis others, so as to conclude that there is any hostile discrimination qua the petitioner, as claimed by her.

Resultantly, the writ petition is devoid of merits and is accordingly dismissed in *limine*.

(ARUN MONGA)
JUDGE

July 23, 2019
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| 1. | Whether speaking/ reasoned: | Yes/ No |
| 2. | Whether reportable: | Yes/ No |