

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

**CWP NO. 14641 OF 2017
DATE OF DECISION : 08.03.2019**

Rajni Bala

...Petitioner

versus

State Bank of Patiala and others

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Ms. Arti Rani, Advocate

Mr. Vikas Chatrath, Advocate,
for the respondent.

ARUN MONGA, J.

1. The present writ petition has been filed, *inter-alia*, for issuance of a writ in the nature of mandamus, directing the respondents to grant ex-gratia lump-sum amount in lieu of the appointment on compassionate grounds, owing to the death of petitioner's husband in harness.

2. The claim of petitioner has been negated primarily on the ground that since she had applied for appointment on compassionate grounds, due to which she had withdrawn her request for payment of ex-gratia compensation, the respondents had closed her file qua compensation. Her request for appointment on compassionate grounds was turned down, as it was held that she is not eligible as per the bank's existing

scheme for those employees who die in harness.

3. Succinctly, the factual back drop is that the petitioner's husband served respondent No.1/State Bank of Patiala (later merged into State Bank of India and currently known as State Bank of India) for a period of 24 years i.e from 1984 until 04.04.2008, when he died in harness. The petitioner immediately thereafter, vide her request/application dated 07.05.2008 (Annexure P-2), represented to the respondent for appointment on compassionate grounds. The respondent bank vide its letter dated 14.05.2008 (Annexure R-1/3), intimated the petitioner that her request for appointment on compassionate ground will not be entertained in view of Circular No.33 dated 24.11.2005 (Annexure R-1/1). She was intimated that in lieu thereof, ex-gratia lump-sum will be paid to the eligible legal heirs of the deceased employee. She was accordingly advised to submit an application for ex-gratia lump-sum compensation. Since the petitioner was not satisfied with the reply of the respondents asking her to seek ex-gratia compensation, she kept pursuing her claim for appointment on compassionate ground. Even though in between, the petitioner did apply for ex-gratia amount, but her application seeking ex-gratia compensation was later on withdrawn by her vide letter dated 30.12.2013 (Annexure R-1/2) since her representation for appointment on compassionate ground was still pending. However, the claim of petitioner for appointment on compassionate ground was finally

rejected vide letter/order dated 12.02.2014 (Annexure P-3). Resultantly, the petitioner has neither been given the benefit of appointment on compassionate ground, nor has she been given any ex-gratia lump-sum compensation payable owing to her husband's death in harness. Hence, the writ petition.

4. The husband of the petitioner was the only bread winner of the family. There are three male children of the petitioner and they are studying. After the death of her husband, entire family faced the financial difficulties. At the time of death of her husband, all the three children were minor and were not entitled to appointment on compassionate ground. Only the petitioner is entitled for appointment on compassionate ground as she has qualified 10+2 examination.

5. I have gone through pleadings and have also heard learned counsels for both the parties and I am of the view that the rejection of claim of the petitioner for grant of ex-gratia lump-sum amount does not stand judicial scrutiny and is not tenable.

6. A perusal of the order dated 12.02.2014 (Anexure P-3), whereby ex-gratia compensation was declined, clearly reflects that the respondent bank concedes that the petitioner was eligible for payment of ex-gratia compensation. The relevant extract of the said order is reflected herein below :

“ Although, you were eligible for payment of ex-gratia lump-sum amount as per Bank's scheme for payment of ex-gratia lump-sum amount. Since you

had withdrawn your request for payment of ex-gratia lump-sum amount, hence, your case for payment of ex-gratia lump-sum amount in lieu of appointment on compassionate grounds has been closed and in future you will not be eligible to apply for payment of ex-gratia lump-sum amount in lieu of compassionate appointment and appointment on compassionate grounds.”

7. Before proceeding further, it would be instructive to also reproduce the relevant extract of The Scheme for Payment of Ex-Gratia Lump-sum Amount In Lieu Of Appointment On Compassionate Grounds In State Bank Of Patiala, as notified vide Circular No.33 dated 24.11.2005 (Annexure R-1/1) :

“ As per the Scheme, request for appointment on compassionate grounds will not be entertained under any circumstance even in the cases of death while on duty/death due to dacoity/robbery/terrorist attack etc. instead, ex-gratia lump-sum amount will be paid to the dependents of the employee who dies while in service or prematurely retired due to incapacitation before reaching the 55 years of age, subject to eligibility as laid down in the subsequent paragraphs. Financial relief would provide the distressed family immediate succor and financial support to help them recover from the sudden deprivation of the income of the deceased employee.”

8. Learned counsel for the petitioner contended that the order dated 12.02.2014 is in complete violation of the ex-gratia scheme, *ibid*. He further contended that the respondent bank cannot take advantage of its own wrong by keeping the representation of petitioner for appointment on compassionate

ground pending for an inordinate period, while the petitioner was orally reassured that the same was being reconsidered. It was in that view of the matter that the petitioner did not simultaneously seek ex-gratia compensation. He contended that on the contrary, being sanguine that she would be offered an appointment on compassionate ground, she withdrew her application for ex-gratia claim as she did not want the same to come in her way to appointment. Learned counsel further contended that in the process, the petitioner had been left high and dry as she neither got appointment on compassionate ground nor had been granted ex-gratia compensation.

9. I am in agreement with the argument of learned counsel for the petitioner as the same are fair and reasonable. It is admitted case of the respondent bank that the petitioner was indeed entitled to ex-gratia compensation but the same has been denied to her as she had even though applied for the same, but withdrew her request at later stage. I am of the view that the petitioner had a valid reason at the relevant time to withdraw her request for ex-gratia compensation under the hope that she might be offered appointment on compassionate ground. Having not given her the appointment on compassionate ground, it was incumbent upon the bank to give her the benefit of ex-gratia compensation. Being duty bound under its own scheme, the bank cannot take refuge behind the fact that petitioner had withdrawn her request for ex-gratia compensation. Particularly, keeping in

view her circumstances where she felt hapless and her requirement for seeking appointment was far to overpowering than to seek ex-gratia compensation.

10. On query being posed by the Court, as to why the petitioner has not sought quashing of the order dated 12.02.2014 (Annexure P-3), learned counsel for the petitioner makes an oral prayer that by inadvertence, the said prayer has been omitted in the petition even though the impugned order, vide which the petitioner's representation was rejected, is under challenge. The said oral prayer of learned counsel for the petitioner was accepted in the course of hearing.

11. In view of my discussions above and the reasons contained therein, the letter/order dated 12.02.2014 (Annexure P-3) is hereby quashed and the respondent bank is directed to consider the case of the petitioner for grant of ex-gratia compensation, by passing a speaking order. Let the needful be done within a period of three months from the date of receipt of certified copy of this order.

(ARUN MONGA)
JUDGE

MARCH 08, 2019
shalini

- | | | |
|----|-----------------------------|--------|
| 1. | Whether speaking/reasoned : | Yes/No |
| 2. | Whether reportable : | Yes/No |