IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP NO. 32848 of 2019(O&M)
DATE OF DECISION : 25.11.2019

Mohit

... Petitioner

versus

Union Bank of India & Ors.

... Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. H.P.S. Ghuman, Advocate,
for the petitioner.
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<u>**ARUN MONGA, J.**</u>

1. *Inter alia,* issuance of a writ in the nature of *certiorari* to seek quashing of order dated 17.05.2019(Annexure P-9) impugned herein, is being sought by virtue of the present writ petition.

2. Vide the impugned order, request of the petitioner for compassionate appointment has been rejected.

3. I have heard learned counsel for the petitioner and perused contents of the writ petition along with record appended thereto, particularly circular dated 19.01.2015 i.e. scheme for appointment on compassionate ground of the respondent Bank. The relevant part of the said scheme is extracted hereinbelow:-

> ***"5. Eligibility***
>
> *5.1 The family is indigent and deserves immediate assistance for relief from financial destitution. To assess the financial condition the income of the family from all sources including the family pension, terminal benefits, proceeds of insurance policies and other investments etc. and the employment of*

family members, size of the family and liabilities, if any, will be taken into consideration.

5.2 Applicant for compassionate appointment should be eligible and suitable for the post in all respects under the provisions of the relevant Recruitment Rules. Recruitment Rules will mean the norms which are in force at the time of making the compassionate appointment."

6 to 9 XXXX

10. Where there is an earning member:-

10.1 In deserving cases, even when there is already an earning member in the family, a dependent family member may be considered for compassionate appointment with the prior approval of the competent authority of the bank who, before approving such appointment, will satisfy himself that grant of compassionate appointment is justified, having regard to the number of dependents, assets and liabilities left by the employee, income of the earning member as also his liabilities including the fact that the earning member is residing with the family of the employee and whether he should not be a source of support to other members of the family.

10.2 In cases where any member of the family of the deceased or medically retired employee is already in employment and is not supporting the other members of the family of the deceased employee, extreme caution has to be observed in ascertaining the economic distress of the members of the family of the deceased employee so that, the facility of appointment on compassionate ground is not circumvented and misused by putting forward the ground that the member of the family already employed is not supporting the family."

4. Backed up with the above scheme, learned counsel for the petitioner strenuously argued that even in those cases where there is earning member of the family, a dependent family member can be considered for compassionate appointment and yet petitioner has been denied appointment

on the ground that financial condition of the family does not reflect that any case of compassionate appointment is made out.

5. While in abstract, arguments of learned counsel for the petitioner may seem attractive but when considered in its entirety, the same is quite vapid. The intent of clause 10 *ibid* seems to be that since a earning member of the family is supposed to look after his own unit and, therefore, a dependent member surviving on the income of his parent, who has died in harness, should not be left high and dry on account of his sibling and/ or other family member being in employment, since the earning member may not necessarily contribute his income to mitigate the indigent condition of the dependent member.

6. It is a settled position in law that compassionate appointments are meant to enable the family to tide over the immediate crisis, provided it is established that financial condition of the family is indigent. It is to be noted that for this purpose it is not an individual's indigency but the financial condition of the family as a whole which has to be taken into consideration.

7. In the present case, mother of the petitioner died in harness. His father is an ex-serviceman and not only draws his own pension from the Defence, but is also is being paid family pension by the bank. The impugned order clearly returned a finding that after taking into consideration the financial status and the assessment made thereupon, it was found by the Committee for Compassionate Appointments that petitioner does not deserve any such compassionate appointment so as to ameliorating his financial hardship. While on one hand petitioner claims to be dependent of his mother, on the other it does not seem probable that his father would not

support him after the demise of mother of the petitioner.

8. In any case, compassionate appointment is not to be construed as an alternative mode of appointment to bye pass merit or to be seen as a kind of reservation so as to seek its enforcement as a matter of right.

9. In the passing, it would not be out of place to reproduce the figures showing financial status of the petitioner's family, as noted in the impugned order:-

	Particulars	**Rs**	**Rs**
*	Provident fund amount paid to Shri Kaptan Singh husband of Late Smt. Manju Rani	113546	
*	Gratuity amount paid to Shri Kaptan Singh husband of Late Smt. Manju Rani	152921	
*	Privilege Leave Encashment amount paid to Shri Kaptan Singh husband of Late Smt. Manju Rani	78589	
*	Other benefits (Amount paid by Welfare Society Panipat)	148500	
A	Sub Total		493556
B	Liabilities (Staff O/D Rs.248461/-, Furniture Loan Rs.24866, Convenience Loan Rs.40720/- O/s as on the date of death) as declared by the family and records available with the bank	314047	
C	Gross Terminal Benefits (A-B)		179509
D	Investments (as declared by the family)	0	
E	Net Financial Benefits Received (C+D)		179509
F	Monthly interest, at Bank's max Term Dep. Rate (8.25%) as prevailing on the date of death of the employee on (E) above	1234	
G	Pension, if any-Bank	10052	
H	Pension, if any-Defence	19296	
I	Other monthly income	0	
J	Net Monthly funds in hand of the family of deceased employee		30582
K	Last full month Salary (net of taxes) of the deceased employee		25285
L	Excess (J-K)		5297

10. From the above table it can be safely assumed that net monthly inflow of fund in the family of the deceased family are way above the last month's salary drawn by the deceased mother of the petitioner and, therefore, the impugned order has rightly returned a finding that the family

is not indigent.

11. In view of the discussed above and the reasoning contained therein, no interference is called for. Writ petition is dismissed.

(ARUN MONGA)
JUDGE

November 25, 2019
Jiten

1. Whether speaking/ reasoned: Yes/ No

2. Whether reportable: Yes/ No