

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.172 of 2020

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Shanker Chhetri @ Shankar Chhetri S/O- Late Sri Krishan Bahadur, Res of
village- Naka Chowk, Purnia city District- Purnia.

... .. Petitioner/s

Versus

1. The Chairman, State Bank of India, Central Officer, Mumbai.
2. The General Manager State Bank of India, Main Branch, Patna.
3. The Assistant General Manager, SBI, Regional Office, Purnia.
4. The Branch Manager, SBI, Basie Branch Purnia.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Manish Kumar
For the Respondent/s : Mr.Kaushlendra Kumar Sinha

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 06-02-2020

Heard learned counsel for the petitioner and learned
counsel for the Respondent-State.

The brief factual background leading to filing of the writ
petition is that petitioner's father died on 10.06.2004. The
respondent-State Bank of India (for short 'S.B.I'), as per
averments made in the writ petition, came out with the scheme
for payment of *ex gratia* lump sum amount. The benefit of
compassionate appointment had been withdrawn w.e.f.
04.08.2005. In the circumstances, petitioner, under the relevant
Scheme, was only entitled to *ex gratia* lump sum payment. In
spite of the said Scheme being invoked, petitioner approached
this Court in C.W.J.C. No. 22194 of 2011 seeking a direction for



his appointment on compassionate grounds. The petitioner's claim was rejected by this Court under order dated 19.12.2011. It is not the petitioner's case that order of this court dated 19.12.2011 was challenged in appeal. The order, therefore, regarding petitioner's claim to compassionate appointment attained finality.

The Bank about more than three years after the said rejection of petitioner's claim in writ proceedings came out with a Scheme on 27.12.2014 providing for compassionate appointment in case of the dependent being deceased of an employee whose death was caused on account of any dacoity, violence or terrorism. The only other condition under which the legal heirs were found to be entitled to compassionate appointment was that if the death of the employee occurred within five years of his appointment or whose age was 30 years.

More than 10 years after the death of the petitioner's father on the basis of such Scheme, petitioner has applied afresh. The claim has been rejected as the petitioner did not fall in either of these categories. Neither his father was done to death in course of dacoity, violence or terrorism nor was it a case that his father died within five years of his appointment or he was just 30 years. The rejection of the petitioner's claim



dated 11.09.2019 has been assailed in the instant proceedings.

The petitioner's counsel submits that such conditions in the rejection order are unsustainable.

The conditions relying upon which the petitioner's claim has been rejected are founded in Scheme of compassionate appointment dated 27.12.2014. The same rejection has not been assailed in the instant proceedings without assailing the said Scheme under which the claim was rejected an order passed in compliance or as a consequence of the Said Scheme cannot be challenged in a writ proceedings, when the Scheme itself has not been challenged. In this connection, this Court would consider it appropriate to refer to judgments of the Apex Court in the case of *Amarjeet Singh & others vs. Devi Ratan & Ors* reported in *(2010) 1 SCC 417*, *Edukanti Kistamma (dead) through Lrs and Others v. S. Venkatareddy (dead) through Lrs and others* reported in *(2010)1 SCC 756* and *Government of Maharashtra and others vs. Deokar's Distillery* reported in *(2003)5 SCC 669*.

In view of the judgments of the Apex Court, taken note of hereinabove, law stands settled that writ petition against a consequential communication without challenging the provision or administrative order pursuant to which it has been issued is



not maintainable.

The other grounds, on which, the claim of the petitioner is not maintainable is that the Scheme itself has come in the December, 2014. The petitioner’s father, admittedly died on 10.06. 2004. Petitioner’s claim for such appointment has already been rejected in the meantime by this Court in C.W.J.C. No. 22194 of 2011. Said order is binding inter parties.

Clearly, the petitioner’s has no enforceable claim for compassionate appointment.

The writ petition is devoid of merit and the same is dismissed.

(Madhuresh Prasad, J)

shyambihari/-

AFR/NAFR	AFR
CAV DATE	N/A
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