IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1663 of 2018

In

Civil Writ Jurisdiction Case No.9375 of 2012

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Lal Muni Devi, Wife of Late Raj Kumar Gond, resident of Mohalla- Anta Ghat, Panchmukhi Hanuman Mandir, J.C. Road, P.S.- Pirbahor, District- Patna. ... ... Appellant.

Versus

1. The Central Bank of India through the General Manager, Central Office, 16th Floor, Chandramukhi Nariman Point, Mumbai.
2. The Deputy General Manager, Central Bank of India, Central Office, 16th Floor, Chandramukhi Nariman Point, Mumbai.
3. The Regional Manager, Central Bank of India, Regional Office, B- Block, Maurya Lok Patna.
4. The Branch Manager, Central Bank of India, Kadam Kuan Branch, Patna.

... ... Respondents.

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Appearance :

For the Appellant/s : Mr. Jagjit Roshan, Advocate.

For the Respondent/s : Mr. Ajay Kumar Sinha, Advocate.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

and

HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE SHIVAJI PANDEY)

Date : 27-02-2020

Heard learned counsel for the appellant and learned counsel for the respondent Central Bank of India (hereinafter for the sake as the 'Bank').

This intra-court appeal has been preferred against the order dated 13.08.2018 passed by the learned Single Judge in C.W.J.C. No.9375 of 2012.

The husband of the appellant was an employee of the Bank and was posted as Peon at Kadam Kuan Branch who died on 08.12.2005. The appellant, being wife of the deceased employee, filed an application for compassionate appointment on 10.01.2006. Thereafter, the Bank informed her that with effect from 14.12.2005, the scheme of compassionate appointment in the Bank has been stopped and the payment of ex-gratia lump sum amount, in lieu of compassionate appointment, was also considered by the Bank and vide order dated 24.07.2009, the Recruitment Promotion Department informed that since gross salary income of the grieved family is more than 60% of the gross salary of the deceased employee, hence, the ex-gratia amount is also not payable.

Learned counsel for the appellant submits that when the husband of the appellant died there was no scheme of payment of ex-gratia. There was simple scheme of compassionate appointment, so the subsequent scheme will not deprive the appellant from being appointed as compassionate appointment and she cannot be denied from the payment of ex-gratia amount as the calculation of 60% has been done not corresponding to the salary which the husband was receiving on the date of his death as well as it has to be kept in mind the genuine need of the family financial assistance.

Compassionate appointment is not a source of appointment as it violates Articles 14 & 16 of the Constitution of India but merely gives a cushion by way of financial assistance to mitigate the financial constrain of the family. The benefit of financial assistance be given to which family is very much clear from the Rule 5 of the Compassionate Appointment Rule applicable to the employee of the Central Bank of India, for ready reference Rule 5 is reproduced herein below:

> *5. Ex-gratia Payment*
> *(a) In the cases as in para 4 (A) ex-gratia amount will be paid to the family of the employee if eligible and if requested for within six months from the date of the death of the employee. The family shall be in indigent or penurious circumstances. Family for this purpose would mean and include spouse, wholly dependent children (son, including legally adopted son/unmarried daughter including legally adopted unmarried daughter). In case of unmarried employee, parents who are wholly dependent on the employee will constitute "family".*
> *(b) Ex-gratia may be granted to the family of the employee in the manner and subject to the ceiling specified below, if the monthly income of the family from all source is less than 60% of the last drawn salary (net of taxes) of the employee.*

From bare perusal of Rule 5 (b), reflects who is entitled to ex-gratia amount, are those whose total gross income is less than 60% of the family.

The calculation made shows the family was receiving Rs.6,499.00 on 27.06.2009 comparing with the gross salary of the deceased employee, Raj Kumar Gond, was Rs.7,682.00. The gross income of the family is more than 60% cannot to be treated to be in penury or indigent family.

Learned counsel for appellant further submits, if calculation is made on the basis of salary which the deceased employee was receiving at the time of death corresponding to the income of the family, would be less than 60%. But, from the writ order, it does not appear that he has pressed this point or the learned Single Judge has gone into this matter. He further submits that the Bank has taken long period for disposal of her application for appointment on compassionate ground.

On the other hand, learned counsel for the Bank submits that the application was filed in the year 2009 and the appellant waited for long two years to come to the Court which itself shows that the family is in a very well financial condition, having no financial constringency, so the question of coming out from the financial boggy does not arise.

Having heard learned counsel for the parties, we do not find any merit in this appeal. Accordingly, this appeal is dismissed and the order passed by the learned Single Judge is confirmed.

(Shivaji Pandey, J)

(Anjani Kumar Sharan, J)

Trivedi/-

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