IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P. (S) No. 1284 of 2019

Kaushalya Devi, aged 62 years, widow of Late Ramadhar Ram, Resident of Satbarwa, P.O. & P.S. Satbarwa, District- Palamau **... Petitioner**

-Versus-

1. The State Bank of India through its Chief General Manager, Patna Zone, Patna
2. Regional Manager, State Bank of India, Regional Business office at Court Compound, Daltonganj, P.O. & P.S. Medininagar, District- Palamau

... Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Petitioner : Mr. A.K. Sahani, Advocate
For the Respondents : Mr. Rajesh Kumar, Advocate

06/07.12.2020. Heard Mr. A.K. Sahani, learned counsel for the petitioner and Mr. Rajesh Kumar, learned counsel for the respondent-Bank.

2. This writ petition has been heard through Video Conferencing in view of the guidelines of the High Court taking into account the situation arising due to COVID-19 pandemic. None of the parties have complained about any technical snag of audio-video and with their consent this matter has been heard on merit.

3. The petitioner has preferred this writ petition for quashing the order dated 14.06.2018, whereby, the claim of the petitioner for ex-gratia lump sum amount has been rejected in terms of Scheme dated 04.08.2005.

4. The petitioner's husband, namely, Late Ramadhar Ram was a permanent employee working on the post of Messenger in Satbarwa Branch of the respondent-Bank, who died in harness on 22.04.2001 leaving behind the petitioner as his widow. At that time, he completed nearly 14 years of service. The petitioner made an application on 25.07.2006 for the benefits under the new Scheme dated 04.08.2005. The said application of the petitioner has been

rejected vide order dated 14.06.2018 and being aggrieved with the same, the petitioner has challenged the said order in this writ petition.

5. Mr. Sahani, learned counsel appearing for the petitioner has assailed the impugned order on the ground that the petitioner has earlier moved this Court in W.P.(S) No.6426 of 2008, which was disposed of by this Court vide order dated 07.05.2018 and the order passed by the respondents dated 17.09.2007 was quashed on the ground that it was a non-speaking order and the respondent-Bank was directed to pass appropriate order taking into consideration the Scheme and the observations made by the Court in the preceding paragraphs of that order, for payment of ex-gratia amount within a period of four weeks from the date of receipt/production of a copy of that order. He submits that earlier application pending for compassionate appointment shall also be governed by the new Scheme dated 04.08.2005 and in that view of the matter, the direction was issued in earlier round of litigation by this Court that the petitioner's application was required to be considered in affirmative way, whereas, by the impugned order, the claim of the petitioner has been rejected on the ground that second wife, namely, Bimla Devi has earlier filed an application for appointment on compassionate ground, which has been rejected vide letter dated 05.02.2004. The petitioner is the first wife and she has filed application on 25.07.2006 after coming into effect of the new Scheme dated 04.08.2005. He refers to Clause 6 and Clause 8 of the Scheme for payment of ex-gratia lump sum amount in lieu of appointment on compassionate grounds in State Bank of India and submits that in view of these Clauses, the petitioner is entitled to get the payment.

6. Per contra, Mr. Rajesh Kumar learned counsel for the respondent-Bank submits that the case of the petitioner has been considered in right direction.

He further submits that after the death of the petitioner's husband Late Ramadhar Ram on 22.04.2001, second wife Bimla Devi had applied for appointment on compassionate appointment scheme, which was turned down vide letter dated 05.02.2004. He further submits that second wife Bimla Devi was having Power of Attorney of Kaushalya Devi i.e. the petitioner for holding any job in place of her husband Late Ramadhar Ram on the basis of compassionate ground. He also submits that the petitioner applied on 25.07.2006, whereas, new Scheme dated 04.08.2005 has already come into effect and in view of Clause 14 thereof, no application with regard to compassionate appointment was pending with the respondent-Bank. He further submits that so far as payment of ex-gratia is concerned, the petitioner is not fulfilling the criteria in view of financial conditions, as indicated in so many words in that Clause.

7. In view of the above submissions of the learned counsel for the parties, the Court has gone into the materials on records. On perusal of Clause-14 of the new Scheme dated 04.08.2005, it transpires that it is clearly stated that the Executive Committee of the Central Board in its meeting held on 04.08.2005 has approved a Scheme for payment of ex-gratia lump sum amount in lieu of appointment on compassionate ground and the new Scheme will replace the existing Compassionate Appointment Scheme and no request for compassionate appointment shall be entertained or considered by the Bank under any circumstance w.e.f. 04.08.2005. It is an admitted position that Bimla Devi, the second wife, on the Power of Attorney of first wife i.e. the petitioner filed earlier application for appointment on compassionate ground, which has been turned down vide letter dated 05.02.2004 and that order has not been challenged by either of the wives and the same has attained its finality. The

clauses referred by Mr. Sahani, learned counsel for the petitioner for eligibility and ex-gratia are also not helping the petitioner. The petitioner has filed application on 25.07.2006, whereas, husband of the petitioner expired on 22.04.2001 and at the time of death, the earlier Scheme was in force. Thus, the case of the petitioner cannot be allowed to be governed with the new Scheme dated 04.08.2005.

8. It is well settled that the application has to be considered in accordance with the Scheme. The appointment on compassionate ground is a concession and not a right. At the time of death, the operative Scheme will govern the case of the person seeking for appointment on compassionate ground. The identical matter has been considered by the Hon'ble Supreme Court in the case of ***MGB Gramin Bank v. Chakrawarti Singh***, reported in ***(2014) 13 SCC 583***. Paragraphs 14 and 15 of the said judgment are quoted herein below:

> "**14.** A scheme containing an in pari materia clause, as is involved in this case was considered by this Court in *SBI* v. *Raj Kumar*. Clause 14 of the said scheme is verbatim to Clause 14 of the scheme involved herein, which reads as under:
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> > "14. *Date of effect of the scheme and disposal of pending applications*.—The scheme will come into force with effect from the date it is approved by the Board of Directors. Applications pending under the Compassionate Appointment Scheme as on the date on which this new scheme is approved by the Board will be dealt with in accordance with scheme for payment of ex gratia lump sum amount provided they fulfil all the terms and conditions of this scheme."
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> **15.** The Court considered various aspects of service jurisprudence and came to the conclusion that as the appointment on compassionate ground may not be claimed as a matter of right nor an applicant becomes entitled automatically for appointment, rather it depends on various other circumstances i.e. eligibility and financial conditions of the family, etc. the application has to be considered in accordance with the scheme. In case the scheme does not create any legal right, a candidate cannot claim that his case is to be considered as per the scheme existing on the date the cause of action had arisen i.e. death of the incumbent on the post. In *SBI*, this Court held that in such a situation, the case under the new scheme has to be considered.**"**

9. Admittedly, the case of the petitioner is not covered by the Scheme dated 04.08.2005. The application of second wife has already been rejected vide letter dated 05.02.2004, which has not been challenged by either of the wives. Thus, no ground for interference is made out in this writ petition. Accordingly, this writ petition stands dismissed.

(Sanjay Kumar Dwivedi, J.)

Ajay/