$~38

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 2807/2017

NIRMALA MEHER ..... Petitioner

Through: Ms. Monica Kapoor, Advocate.

versus

UNION OF INDIA AND ANR ..... Respondents

Through: Mr. Jagat Arora and Mr. Rajat Arora, Advocates for R-2.
Mr. Rajiv Kapur, Mr. Akshit Kapur and Ms. Tanya Kapoor, Advocates for R-3.

CORAM:
HON'BLE MR. JUSTICE A. K. CHAWLA

<u>O R D E R</u>

% 20.01.2020

By the instant petition, the petitioner, in effect, seeks compassionate appointment with the respondent no.3–State Bank of Patiala, since merged with State Bank of India, in short 'the bank'.

Shorn of unnecessary details, the relevant facts are that the petitioner is the widow of the deceased Inderjeet Mehar, who was employed with the bank on 16.01.1999 and died on 17.07.2014. On the happening of such an unfortunate event, the petitioner, who had two minor children, made an application with the bank for seeking compassionate appointment vide application dated 01.11.2014, which forms part of the paper book as Annexure P-2. The application so made was however turned down by the bank vide its communication dated 25.03.2015 and the petitioner was requested to apply for payment of ex-gratia lump sum amount in lieu of appointment on compassionate grounds, within nine months of the death of the employees as per the extant instructions of the bank. It is the case of the petitioner that within the time available to her, she had made an application in pursuance of the Ministry of Finance's communication D.O.F.No.18/2/2013-IR dated 07.08.2014, whereby, an approval on the proposal of Indian Banks' Association–respondent no.2 was given to open the compassionate appointment in PSBs on the lines of Central Government and discontinue the provision of ex-gratia in lieu of compassionate appointment in PNB was made. This communication is the foundation of the claim of the petitioner in the present petition. It reads as under:

> "*D.O.F.No.18/2/2013-IR dated: 7th August, 2014.*
>
> *Dear Kamath Sahab,*
>
> *Kindly refer to IBA's letters No. HR&IR/KC/Govt/ 532/9274 dated 22.4.2014 and 13.6.2014 regarding IBA's proposal for revising the Compassionate Appointment Scheme in Public Sector Banks (PSBs). The proposal has been examined in this Department and it is decided to convey the approval of the Government on the proposal of IBA as follows:*
>
> *i) To open the Compassionate Appointment in PSBs on the lines of Central Government;*
>
> *ii) Discontinuing the provision of ex-gratia in lieu of Compassionate Appointment in PSBs.*
>
> *2. Accordingly, IBA is also requested to take appropriate action to circulate the revised Scheme to all PSBs for adoption with the approval of their respective Boards. The scheme shall be applicable from 5.8.2014.*
>
> *3. This issues with the approval of Hon'ble Finance Minister.*
>
> *With warm regards,*
>
> *Yours Sincerely,*
>
> *Sd/-*
>
> *(Pravin Rawal)*"

The foregoing communication, it would be seen, is in the nature of a proposal rather than formulation of any scheme by any of the banks forming part of IBA. This proposal required adoption by the respective Boards of the Banks, who form part of the IBA.

Ms.Kapoor, ld. counsel for the petitioner on her part is unable to point out for any scheme having been adopted by the bank in pursuance of the said letter dated 07.08.2014 but for the scheme of 04.08.2011 in vogue, a copy whereof forms part of the counter-affidavit, as Annexure R-5. But for the amendment to the scheme of 04.08.2011 as regards the quantum of ex-gratia payment nothing else emerges on record. As per the compassionate appointment scheme dated 04.08.2011, the scheme was applicable only to the following cases:

> "*i. Employee dying while performing his official duty, as a result of violence, terrorism, robbery or dacoity.*
> *ii. Employee dying within five years of his first appointment or before reaching the age of 30 years, whichever is later, leaving a dependent spouse and/or minor children*."

Undisputedly, the case of the petitioner is not covered under any of the foregoing cases. Thus, in the absence of any scheme in vogue as on the date the petitioner made an application for compassionate appointment, the Court does not find any right vesting in the petitioner to assert compassionate appointment. At the relevant time, the petitioner was entitled only to the ex-gratia lump sum payment as per the applicable and/or amended scheme in vogue.

Though, Ms. Kapoor adverting to para 15 of the counter-affidavit seeks to contend that the bank had a revised policy dated 24.04.2015 w.e.f.

05.08.2014, Mr. Kapur, ld. counsel for respondent no.3, on his part submits that revised policy dated 24.04.2015 was only an amendment as regards the quantum of ex-gratia payable against the compassionate appointment and that the assertion in para 15 of the counter-affidavit has to be read in the said context rather than any new scheme of compassionate appointment. In support of his such submissions, Mr. Kapur explains that the revised/ amended policy dated 24.04.2015 was only as regards the ex-gratia payment w.e.f. 05.08.2014 rather than for granting compassionate appointment and nothing else. The Court does not see any reason to find fault with such submissions made by Mr. Kapur.

For the foregoing reasons, the Court does not find that the case of the petitioner is covered within the compassionate appointment scheme of the bank either at the time she made the application or later. There is therefore, no merit in the case of the petitioner seeking compassionate appointment.

The petitioner as per the applicable scheme is only entitled to ex-gratia lump sum amount in lieu of appointment on compassionate ground that was offered to her by the bank vide communication dated 25.03.2015. For the release thereof, the petitioner may approach the bank and it is directed that on such application made by the petitioner, the bank shall proceed to process such application made and release the ex-gratia lump sum amount to the petitioner within four weeks of the application being so made. In doing so, the bank shall also consider granting interest on the amount so found due and payable to her inasmuch as the bank being a Government of India Enterprise, would not like to make any unjust enrichment for the utilisation thereof. Granting reasonable interest should be considered taking note of the fact that the petitioner is a widow with two minor daughters.

Petition stands disposed of in the aforegoing terms.

A. K. CHAWLA, J

JANUARY 20, 2020

nn