

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) NO.2306 of 2012**

1. Smt.Chhaya Kardekar, aged about 50 years, W/o Late Shri Vinod Kardekar, R/o Gitanjali Apartment, Link Road, Bilasur (CG)
2. Ashish Kardekar, aged about 23 years, S/o Late Shri Vinod Kardekar, R/o Gitanjali Apartment, Link Road, Bilasur (CG)

-----Petitioners**Versus**

1. Chhattisgarh Rajya Gramin Bank, through its Chairman, 15, Recreation Road, Choubey Colony, Police Station Amapara, Raipur, Civil and Revenue District-Raipur (CG)
2. The Board of Directors Chhattisgarh Rajya Gramin Bank, 1st Floor, Vivek Complex, Sangam Gali, Police Station-Ambikapur, Civil and Revenue District-Surguja (CG)
3. The Senior Manager, Chhattisgarh Rajya Gramin Bank, 1st Floor, Vivek Complex, Sangam Gali, Police Station-Ambikapur, Civil and Revenue District-Surguja (CG)

----- Respondents

For Petitioners	: Ms Sharmila Shinghai, Senior Advocate with Mr.Sanjay Agrawal, Advocate
For Respondents	: Mr.N.Naha Roy, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal
Order on Board

21/9/2021

1. Ms Sharmila Shinghai, learned Senior Counsel with Mr.Sanjay Agrawal, learned counsel for the petitioners, would submit that husband of petitioner No.1 and father of petitioner No.2 Shri Vinod Karkdkar died in harness during the course of employment on 29.1.2010 and petitioner No.2-Ashish Karkekar applied for grant of compassionate appointment before the respondents-authorities, which was rejected by order dated 15.4.2011 and thereafter in

accordance with the policy of the respondent Bank, petitioner No.1-Smt.Chhaya Kardekar applied for payment of ex-gratia amount as per clause 5(a) of the policy of the respondent Bank (Annexure P-5) and since she is eligible and monthly income of the family from all sources is less than 60% of the last drawn salary (net of taxes) of the employee, but despite several representations it has not been considered and decided and no amount of ex-gratia has been paid to petitioner No.1.

2. Mr.N.Naha Roy, learned counsel for the respondents, would submit that it has been considered vide Annexure R-4 and it has been held that monthly income admittedly exceeds 60% of the last drawn salary (net of taxes) of the employee, therefore, petitioner No.1 is not entitled for ex-gratia amount.

3. Ms Sharmila Shinghai, learned Senior Counsel in reply to above submissions, would submit that Annexure R-6 was in the shape of calculation, it is not the part of order and therefore, it could not challenge and could not controvert the same as petitioner No.1 is already suffering a loan of ₹8,06,073.47, which is apparent from Annexure P-9 and even interest at the rate of 9% has been calculated, whereas interest rate at the relevant point of time was 6% or 7%. Therefore, such a calculation is not in accordance with law and on that basis, calculation could not have been made.

4. I have heard learned counsel for the parties, considered

their rival submissions made hereinabove and also went through the records with utmost circumspection.

5. It is true that husband of petitioner No.1 and father of petitioner No.2 died in harness on 29.1.2010 and their application for compassionate appointment has been rejected, which has been accepted by the petitioners and it has not been questioned, but when petitioner No.1 made an application for grant of ex-gratia amount in terms of the applicable policy, it has not been considered and no decision formal accepting or rejecting has been communicated, whereas the respondent Bank was obliged to inform the petitioners about their claim, whether they are entitled for ex-gratia amount or not except Annexure R-6 dated 2.7.2011, which is said to have not been received by learned counsel for the petitioners.
6. It is the case of the petitioners that order rejecting amount of ex-gratia was never served to them and it has been specifically pleaded in para-8.9 of the rejoinder that no such letter was received by the petitioners and against which no additional affidavit was filed by the respondent Bank showing that it was served to the petitioners.
7. Since it is the case of the petitioners that at that time their liability was ₹8,06,073.47 and interest rate was 7.25%, therefore, she would be entitled for ex-gratia amount, which according to learned Senior Counsel for the petitioners, it would be 8 to 10 lacs.

8. Since the amount of ex-gratia which the petitioners are claiming, which can be 8 to 10 lacs, petitioner No.1 ought to have heard by the respondent Bank and could have allowed to make a representation particularly with regard to responsibility and liability which petitioner No.1 was having at that relevant point of time and before assessing whether it exceeds 60% of the last drawn salary (net of taxes) of the deceased employee, but that has not been given to the petitioners and unilaterally assessment has been made, which is seriously disputed by the petitioners in affidavit filed before this Court as well as submission made before this Court and after hearing the petitioners, correct conclusion could have been reached by the respondent Bank as to whether petitioner No.1 is entitled for ex-gratia amount or not.
9. Consequently, impugned action refusing the amount of ex-gratia is not in accordance with law. The matter is remitted to the respondent Bank to consider afresh the question of ex-gratia amount in terms of applicable policy vide Annexure P-5. The petitioners will be allowed to make a representation with regard to assets, liabilities, rate of interest etc., and thereafter final decision will be taken by the respondent Bank within 60 days from the date of receipt of a copy of this order and to pass a reasoned and speaking order. The petitioners are at liberty to file the additional documents in support of their case showing the responsibilities, rate of interest etc.

10. The writ petition is allowed to the extent indicated hereinabove leaving the parties to bear their own cost(s).

Sd/-

(Sanjay K.Agrawal)
Judge

B/-