



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.09.2021

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THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P (MD) No.4765 of 2018

& WMP (MD) No.4779 of 2018

John of Arc

... Petitioner

Vs.

1. The General Manager
Canara Bank, PM Section,
Personnel Management Wing,
112, J.C.Road, Head office,
Bangalore - 2.

2. The Deputy General Manager,
Canara Bank, H.R.M Section,
Circle Office,
East Veli Street,
Madurai-1.

3. The Manager,
Canara Bank,
Paramakudi,
Ramanathapuram District.

.... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the entire records relating to the impugned order of the 2nd respondent pertaining to vide letter No. MDUC HRM EXGR 3786 KK dated 04.04.2008 regarding payment of Exgratia and the consequential impugned order vide letter No.MDUC HRM 2423 E9 2015 dated 16.05.2015 regarding compassionate appointment and set aside the same as arbitrary, unlawful, illegal improper and unconstitutional and consequently, direct the 1st respondent to provide employment on compassionate grounds to one of family members and also to pay the lump sum amount of exgratia.

For Petitioner : M/S.R.Murugan.

For Respondents : Mr.N.Dilipkumar



ORDER

The Writ Petition has been filed, praying for issuance of a Writ of Certiorarified Mandamus, a Writ of Certiorarified Mandamus, to call for the entire records relating to the impugned order of the 2nd respondent pertaining to vide letter No. MDUC HRM EXGR 3786 KK dated 04.04.2008 regarding payment of Exgratia and the consequential impugned order vide letter No. MDUC HRM 2423 E9 2015 dated 16.05.2015 regarding compassionate appointment and set aside the same as arbitrary, unlawful, illegal improper and unconstitutional and consequently, direct the 1st respondent to provide employment on compassionate grounds to one of family members and also to pay the lump sum amount of exgratia.

2. By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

3. According to the petitioner, her husband Late J. Murugan was appointed as a Peon in Canara Bank and while working at Paramakudi Branch under the control of the 2nd respondent, he expired on 20.02.2003, leaving behind the petitioner and his minor daughter and two minor sons. The petitioner made an application on 23.08.2003 seeking to provide appointment on compassionate grounds. She also made application on 23.08.2003 for grant of exgratia in lieu of compassionate appointment. By impugned order vide letter, dated 16.05.2015, the 2nd respondent rejected the application made by the petitioner for grant of compassionate appointment, stating that the existing scheme for compassionate appointment is applicable with effect from 05.08.2014 and the cases where death has occurred on or after 05.08.2014 only will be considered. Thereafter, by impugned letter dated 04.04.2008, the 2nd respondent also rejected the application made by the petitioner for grant of exgratia. Challenging the same, the petitioner has come forward with the present Writ Petition.

4. A counter affidavit has been filed on behalf of the respondents, wherein, it is stated that by the impugned letter, the respondent bank has clarified that the dependents of the deceased employee Late J. Murugan did not fall within the eligibility criteria of the Scheme governing lump sum ex-gratia payment and also for appointment to the dependents of the deceased employee on compassionate grounds. The application is not maintainable either in law or on facts. The respondent bank has settled the terminal benefits and no ground is made out for grant of ex-gratia. The Writ Petition has been filed with undue delay of nearly 11 years after rejection of the petitioner's application for lump sum ex-gratia.

5. It is further stated that the respondent bank formulated the scheme for payment of ex-gratia lump sum amount vide Circular No. 35/2005 in lieu of appointment on compassionate grounds to the dependents of the deceased employees, subject to their fulfilling



certain conditions to become eligible under the Scheme, like the monthly income of the family from all sources, after the death of the employee has to be less than 60% of the last drawn salary of the deceased employee and the application has to be made within six months from the date of death of the employee. In the year 2015, a new scheme for employment under compassionate grounds was formulated and circulated vide HO Circular No.142/2015/, dated 20.03.2015 and it came into operation only with effect from 05.08.2014 and since the death of the petitioner's husband was on 20.02.2003, the case of the petitioner was not covered under the said Scheme. The respondent bank has duly examined the request of the petitioner in terms of the Scheme and it is found that the last drawn gross salary of the employee at the time of his death was Rs.7,726/- and after his death, the income of the dependents of the deceased employee calculated from all sources per month worked out to Rs.5,468/- and since the said income was more than 60% of the last drawn salary of the deceased employee, the dependents were not eligible to draw the lumpsum ex-gratia. This was duly informed to the petitioner vide letter dated 04.04.2008.

6. It is further stated that as on the date of death of the petitioner's husband, only the scheme for payment of lump sum ex-gratia was in vogue and since as per the scheme, the petitioner was found not eligible for the lump sum ex-gratia and the respondent Bank has rightly rejected her case. As regards providing compassionate employment is concerned, there was no scheme in existence for providing employment on compassionate grounds to the dependents of the deceased employee on the date of the deceased employee and hence, the request of the petitioner for providing compassionate appointment could not be considered by the bank. With these averments, the respondent bank sought for dismissal of the writ petition.

7. Heard the learned counsel appearing for the petitioner and the learned Standing Counsel appearing for the respondents.

8. The learned counsel for the respondents bank, while reiterating the counter affidavit, would submit that the application made by the petitioner for grant of lump sum ex-gratia was considered by the respondent bank and since it is found that the income of the dependents of the deceased employee from all sources per month worked out to Rs.5,468/- while the last drawn gross salary of the deceased employee at the time of his death was Rs.7,726/-, which is more than 60% of the last drawn salary of the deceased, hence, the respondent bank has not considered the application of the petitioner for grant of ex gratia lump sum and the same was informed by impugned letter dated 04.04.2008. He also pointed out that as there was no scheme existing for providing compassionate appointment at the time of death of the deceased employee, the application made by the petitioner was also not considered.



9. Admittedly, after the death of the deceased employee, the 2nd respondent bank settled the death benefits and the petitioner was also provided with pension. As regards the claim of the petitioner for grant of lump sum exgratia in lieu of compassionate appointment is concerned, it seems that the petitioner made application on 23.08.2003 and the 2nd respondent has rejected the same vide impugned letter dated 04.04.2008 itself. This was not challenged by the petitioner and it has become final. Now after lapse of more than 10 years, the petitioner has challenged the said order in the present writ petition. A perusal of the impugned letter dated 04.04.2008, it is clear that the 2nd respondent has rightly rejected the claim of the petitioner for grant of ex gratia since the petitioner has not satisfied the norms for grant of the same since admittedly, the income of the dependents of the deceased employee from all sources per month is Rs.5,468/- which is more than 60% of the last drawn gross monthly salary of the deceased at Rs.7,7.726/- and therefore, only if it was less than 60% only, the dependents of the deceased were entitled to lump sum ex gratia exgratia in lieu of compassionate appointment. This Court does not find any infirmity to interfere with the same.

10. As regards the rejection of the petitioner claim for grant of compassionate appointment is concerned, admittedly, on the date of death of the husband of the petitioner, i.e. on 20.02.2003, there was no scheme available for providing employment to the dependents of the deceased employee on compassionate grounds. Only in the year 2015 vide HO Circular of the Bank No.142/2015, dated 20.03.2015, the scheme for employment under compassionate grounds was formulated which came into operation with effect from 05.08.2014, while the petitioner's husband died on 20.02.2003. Hence, the 2nd respondent has rightly rejected the request of the petitioner vide impugned proceedings dated 16.05.2015, wherein also, this Court does not find any infirmity in order to interfere with the same.

11. Accordingly, for the reasons stated above, the Writ Petition is dismissed as devoid of merits. No costs. Consequently, connected WMP is closed.

Sd/-

Assistant Registrar (CRL)

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/ /2021

Sub Assistant Registrar(CS)

Dn Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the

<https://hcservicescentre.gov.in/hcservices> concerned.



+1 CC to M/s.N.DILIPKUMAR, Advocate (SR-27826[F] dated 01/09/2021)

+1 CC to M/s.R.MURUGAN, Advocate (SR-28027[F] dated 03/09/2021)

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