



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Writ Petition (MD)No.21241 of 2017

WEB COPY

K.Vinoth Kumar

... Petitioner

Vs.

1.The Chief Manager (HRM),
Indian Bank,
Corporate Office, HRM Department,
254 - 260, Avvai Shanmugam Salai,
Chennai 600 014.

2.The Branch Manager,
Indian Bank,
Ganapathi Agraharam Branch,
6-50/1, Pillaiyar Koil Street,
Ganapathi Agraharam,
Thanjavur.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records on the file of the first respondent in connection with the impugned order of rejection passed by him vide his proceedings in No. Nil dated 19.09.2017 and quash the same as illegal and arbitrary and consequently direct him to appoint the petitioner in any suitable post, based on his educational qualification under compassionate ground in the light of Clause 82 of 17(v) of the Scheme for compassionate appointment in Public Sector Banks.

For Petitioner	: Mr.G.Thalaimutharasu
For R2	: Mr. Pala Ramasamy
	Standing counsel

O R D E R

This writ petition has been filed challenging the impugned order of rejection passed by the first respondent, dated 19.09.2017 and to quash the same and consequently, direct the first respondent to appoint the petitioner in any suitable post, based on his educational qualification, under compassionate ground, in the light of Clause 82 of 17(v) of the Scheme for compassionate appointment in Public Sector Banks.

2. The case of the petitioner is that his father was working as Office Assistant in the second respondent Office and died in harness on 03.09.2012 leaving behind the petitioner, wife and his daughter



as legal heirs. Hence, the mother of the petitioner has made a representation to the second respondent on 04.02.2015, seeking compassionate appointment to the petitioner or his sister. Moreover, the petitioner has made several representations to the second respondent. However, the first respondent has rejected the same on 19.09.2017, on the ground that there is no Scheme available between 2012 and 2014, for providing compassionate appointment. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner would submit that though there is no Scheme available between 2012 and 2014 for providing compassionate appointment, in the interregnum, the respondent Bank has to provide ex-gratia amount to the deceased family. However, neither the ex-gratia amount nor the compassionate appointment provided to the petitioner. Hence, the order impugned in the present writ petition cannot be sustained. Further, the learned counsel for the petitioner has relied on a decision of the Hon'ble Apex Court in the case of **Canara Bank and another vs. M.Mahesh Kumar in Civil Appeal No.260 of 2008**, dated 15.05.2015.

4. The learned Standing counsel appearing for the second respondent would submit that admittedly, between 2012 and 2014, there is no Scheme for compassionate appointment and the petitioner is entitled only for an ex-gratia amount and even for ex-gratia amount, the petitioner did not make any application, at the relevant point of time. The petitioner's mother has made an application for compassionate appointment only on 04.02.2015. Though the Scheme for providing compassionate appointment again came on 05.08.2014, the petitioner's representation was rejected, on the ground that there is no provision available at the relevant point of time. Hence, this Court may remand the matter back to the first respondent and permit the petitioner to make a fresh representation claiming the ex-gratia amount or compassionate appointment and if such a representation is received, the same will be considered, as per the existing Scheme available.

5. Heard the learned counsel for the petitioner, learned Standing counsel for the second respondent and perused the materials available on record.

6. The facts in the present case are not in dispute. Admittedly, the petitioner's father died on 03.09.2012 and at the relevant point of time, there is no Scheme available for providing compassionate appointment. However, there is a provision available for awarding ex-gratia amount and it is also an admitted fact that the petitioner's mother has made the application on 04.02.2015 and the said application is well within the period of three years. The above decision referred by the learned counsel for the petitioner is squarely applicable to the facts of the present case and the relevant portion of the judgment cited supra is as follows.



"14. It is also pertinent to note that 2005 Scheme providing only for ex-gratia payment in lieu of compassionate appointment stands superseded by the Scheme of 2014 which has revived the Scheme providing for compassionate appointment. As on date, now the scheme in force is to provide compassionate appointment. Under these circumstances, the appellant bank is not justified in contending that the application for compassionate appointment of the respondent cannot be considered in view of passage of time.

17. Considering the scope of the Scheme Dying in Harness Scheme 1993 then in force and the facts and circumstances of the case, the High Court rightly directed the appellant bank to reconsider the claim of the respondent for compassionate appointment in accordance with law and as per the Scheme (1993) then in existence. We do not find any reason warranting interference."

7. Following the above cited decision, this Court is inclined to set aside the order impugned in the writ petition. Accordingly, the order passed by the first respondent, dated 19.09.2017, is set aside and the matter is remanded back to the first respondent for fresh consideration and the petitioner is permitted to make a fresh representation within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the first respondent is directed to consider the same and pass appropriate orders, on merits and in accordance with law, within a period of twelve weeks thereafter.

8. With the above directions, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

akv

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 advocate/litigant concerned.



To

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Thanjavur.

+1 CC to Mr.G.THALAIMUTHARASU, Advocate (SR-4135[F] dated
10/02/2021)

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VB (26.03.2021) 4P 4C