In the High Court of Punjab and Haryana, at Chandigarh

Civil Writ Petition No. 11828 of 2020

Date of Decision: 25.01.2021

Mrs. Rimmy

... Petitioner(s)

Versus

Union of India and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Rajesh K. Sheoran, Advocate
for the petitioner(s).

Harneet Singh Oberoi, Advocate
for respondent No.1.

Mr. Anil Kumar Ahuja, Advocate
for respondents No. 2 to 4.

Anil Kshetarpal, J.

Through this writ petition, filed under Article 226/227 of the Constitution of India, the petitioner prays for issuance of a writ in the nature of certiorari for quashing the order dated 02.11.2019 refusing to appoint her on compassionate basis. The petitioner's husband, who was employed in the State Bank of India, died on 27.0.2018. On his death, the petitioner applied for compassionate appointment. The appointment has been refused on the ground that the petitioner being 38 years and 8 months old is over aged. It has been brought to the notice of the Court that the State Bank of India had adopted a policy of compassionate appointment in the year 1979 which continued to operate upto 03.08.2005. Thereafter, a new scheme was adopted on 04.08.2005 providing for ex-gratia payment of the amount without making any provision for offering compassionate appointment. On 15.05.2011, the Indian Banks Association came out with another scheme for compassionate appointment in exceptional cases. Thereafter, another scheme was proposed by the Indian Banks Association, which was not accepted by the respondent-Bank. Hence, vide communication dated 18.10.2014 the respondent-Bank wrote a letter to the Government of India for clarification. The Government of India, vide communication dated 09.12.2014, permitted the respondent-Bank to simultaneously continue to follow the schemes for grant of compassionate appointment in exceptional cases as well as for grant of one time ex-gratia payment. Pursuant thereto, the bank has taken a policy decision. The scheme for grant of compassionate appointment in exceptional cases is confined to the following eventualities:-

> *"5. COVERAGE:*
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> *5.1 To a dependent family member of permanent employee of the Bank who*
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> *(i) dies while performing official duty, as a result of violence, terrorism, robbery or dacoity; or*
>
> *ii) dies within five years of first appointment or before reaching the age of 30 years, whichever is latter, leaving a dependent spouse and/or minor children".*

The scheme further lays down the upper age. It is provided that the relaxations in the upper age would be as per the prevalent recruitment policy of the bank. It has been brought to the notice of the Court that as per the prevalent recruitment policy, the maximum age for appointment is 28 years with a provision to grant relaxation for a period of seven years to the widows, divorced women and women judicially separated. Thus, at the most, the maximum age for appointment is 35 years. However, on the date of death of her husband, she was 38 years & 8 months old.

Learned counsel for the petitioner submits that the decision taken by the Indian Banks Association is binding on the State Bank of India and therefore, the petitioner is entitled to appointment. Learned counsel also draws attention of the Court to Section 18 of the State Bank of India Act, 1955 (hereinafter referred to as "the 1955 Act").

Learned counsel for the petitioner further contends that the proposal made by the Indian Banks Association on 07.08.2014 has also been approved by the Central Government, therefore, the same is binding on the respondent-bank.

It is apparent that Section 18 of the 1955 Act provides that the Central Board would be guided by the directions of the Central Government. It nowhere provides that the bank shall be bound by all the advisories issued by the Indian Banks Association. Still further, the State Bank of India is a Government owned bank. In the present case, the Central Government has already permitted the bank to continue with both the schemes i.e. offering compassionate appointment in exceptional circumstances as also one time payment as ex-gratia. A compassionate appointment cannot be claimed as a matter of right. It depends on the policy adopted by the employer. In the present case, the petitioner's case is not covered by the policy adopted by the employer.

On 09.12.2014, the Central Government had permitted the respondent-bank to continue with the scheme for grant of compassionate appointment in exceptional cases and in the alternative, to pay ex-gratia. Once a specific permission has been granted to the State Bank of India, the general policy recommended by the Indian Banks Association would not be binding.

Still further, once the Central Government has allowed the State Bank of India to adopt two policies simultaneously, then recommendation of the Indian Banks Association cannot be held to be binding in absence of such provision in the Act or the Rules framed thereunder.

Hence, no ground is made out to issue the writ, as prayed for and the writ petition is, therefore, dismissed.

(Anil Kshetarpal)
Judge

January 25, 2021
"DK"

Whether speaking/reasoned :Yes/No
Whether reportable : Yes/No