

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20345 of 2021

1. Rajat Kumar Son of Late Ranjan Kumar Singh, aged about 30 years, male, Resident of Karpuri Chowk, Near Azad Transport, Near A.D.B. Ward No. 19, Madhepura, P.S. Madhepura, District- Madhepura (Bihar).
2. Anirudha Kumar Son of Late Sona Lal Prasad, aged about 36 years, Resident of Village- Laxmipur, P.S. Adapur, P.O.- Adapur, District- East Champaran, Bihar.
3. Abhishek Kumar Son of Late Ashok Kumar Gupta, aged about 27 years, Resident of Village and P.O. Mehasi, P.S. Mehasi, District- East Champaran.
4. Rozi Khatoon D/o Late Akram Kharshid, aged about 26 years, Resident of Village and P.O. Chandradei, P.S. , District- Araria.
5. Gaurav Kumar Son of Rameshwar Ram, aged about 26 years, Resident of Village and P.O.- Kurawan, P.S. Chakiya, District- East Champaran, Bihar.

... .. Petitioners

Versus

1. Chairman, Head Office, Uttar Bihar Gramin Bank Kalambagh Chowk, Muzaffarpur, Bihar.
2. General Manager, Head Office, Uttar Bihar Gramin Bank, Kalambagh Chowk, Muzaffarpur, Bihar.
3. Regional Manager, Regional Office, Uttar Bihar Gramin Bank, Deo Market, Purab Bazar, Saharsa, Bihar.
4. Regional Manager, Uttar Bihar Gramin Bank, Regional Office Muzaffarpur, Bihar.
5. Regional Manager, U.B.G.B. Regional Office, Araria, Bihar.
6. Regional Manager, U.B.G.B. Regional Office, Motihari.

... .. Respondents

Appearance :

For the Petitioners	:	Ms. Punita Kumari Singh, Adv.
For the Bank	:	Mr. Mahendra Pathak with Mr. Nagendra Upadhyay, Advocates

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD



ORAL JUDGMENT

Date : 07-12-2022

Heard learned counsel for the petitioners and learned counsel for the Uttar Bihar Gramin Bank (for brevity 'the Bank').

2. The petitioner's father died in harness while working as a Branch Manager in the respondent Bank on 12.10.2016. The petitioner made an application for compassionate appointment on 13.06.2019, as contained in Annexure-4 to the writ petition. The claim for compassionate appointment has been rejected under order dated 27.07.2020 by assigning a reason that the scheme for compassionate appointment dated 07.06.2019 was effective in the Bank from 21.05.2019. The same, therefore was held to be inapplicable to the petitioner's case on account of demise of his father on 12.10.2016, i.e. before coming into force of the Scheme for compassionate appointment.

3. The learned counsel for the petitioner submits that there is no dispute regarding the fact that the Scheme was effective from 21.05.2019 which is apparent from a bare reading of the Scheme itself. She has claimed compassionate appointment placing reliance on Clause 8 of the Scheme, which reads as follows:-

"8. TIME LIMIT FOR CONSIDERING APPLICATIONS

8.1. Application for employment under the Scheme from eligible dependent should normally be considered upto five years from the



date of death or retirement on medical grounds and decision to be taken on merit in each case.

8.2. However, Bank can consider request for compassionate appointment even when the death or retirement on medical ground of the employee took place long back, even five years ago. While considering such belated requests, it should, however, be kept in view that the concept of compassionate appointment is largely related to the need for immediate assistance to the family of the employee in order to relieve it from economic distress. The very fact that the family of the employee has been able to manage somehow all these years should normally be taken as adequate proof that the family had some dependable means of subsistence. Therefore, examination of such cases would be called for a great deal of circumspection. The decision to make appointment on compassionate ground in such cases may, therefore, be taken only at the Board level.”

4. It is submitted that Clause 8.1 provides for consideration of grant of compassionate appointment up to five years from the date of death or retirement on medical grounds. Clause 8.2 provides for consideration of even belated claims, but at the Board level. The submission is that in view of Clause 8.1, the petitioner's father demise being within five years from 21.05.2019, the petitioner is entitled to consideration of his claim.

5. The learned counsel for the bank, on the other hand submits that the petitioner cannot claim any consideration till such time the Scheme has become effective i.e., on 21.05.2019 and, therefore, the petitioner's reliance on Clause 8.1 is clearly unsustainable.



6. The petitioner's counsel placed reliance on a Division Bench judgment of this court in the case of the ***Central Bank of India vs. Urmila Devi*** and analogous cases arising out of ***LPA No. 649 of 2017*** dealing with similar arguments advanced on behalf of the Bank to resist the claim for compassionate appointment, the Division Bench held as follows:-

“As far as all three employees were concerned, even if their cases do not fall under Clause (a) of the Scheme, 2007, we find that their cases would fall under Clause 8.1. of the Scheme of 2014, as the incident in question took place on 04.10.2012 and their cases of employment under the Scheme has to be considered up to five years from the date of death or retirement on medical ground etc. It is the contention of the Bank before us and Sri Ajay Kumar Sinha, learned counsel appearing for the Bank, vehemently argued that the Scheme in question of the year 2014 has come into force with effect from 05.08.2014 and, therefore, only if the accident occurs after 05.08.2014, then their cases can be considered five years from the date of coming into force of the Scheme. If such a contention is accepted, then clause 8.1. would be redundant. It would not cover any case where death occurred prior to 05.08.2014. It would only apply in cases where death occurs five years after 05.08.2014. This could never be the intention of the formulator of the Scheme. The clause 8.1. of the Scheme of 2014, in our view, was introduced for granting benefit of compassionate appointment in such cases where death occurred within five years from the date of coming into force of the Scheme of 2014 and not after 05.08.2014. The learned Writ Court has also considered this aspect of the matter and has directed for considering the case of the employees under these clauses and we see no error in the same warranting reconsideration.



In our considered view, the purpose of incorporating clause 8.1. in the Scheme of 2014 would only be for giving benefit of compassionate appointment in cases where death occurs five years prior to coming into force of the Scheme and if the contention advanced by the Bank is accepted, we are of the considered view that Clause 8.1. of the Scheme of 2014 need not be incorporated in the manner it has been done. Accordingly, finding no merit, we dismiss the appeals.”

7. The petitioner, therein was, therefore, found entitled to consideration of her claim under Clause 8.1 of the Scheme. The order of the Division Bench was unsuccessfully challenged by the Bank, which is evident from the order dated 13.08.2019, passed in Special Leave to Appeal(C) Nos. 31878-31879/2017, copy of the order which has been handed over is being retained in the file. The Court, therefore, would find that the submissions advanced by the learned counsel for the Bank having been negated under identical circumstances, does not merit any consideration to support the rejection of the petitioner's claim, under the impugned order dated 27.07.2020. The order being unsustainable for the reasons recorded above is hereby quashed. The Bank should consider the petitioner's claim in light of Clause 8.1 of the Scheme dated 07-06-2019, by a reasoned and speaking order.

8. The writ application is allowed with the above noted observation/direction. Let the final order be passed by Chairman,



(Respondent No.1), on the petitioner’s claim within a period of three months from the date of receipt/production of a copy of this order.

9. Writ petition is allowed.

(Madhuresh Prasad, J)

shyambihari/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	28-12-2022
Transmission Date	

