

05.08.2022.
Court No.23
Item No. 2
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 584 of 2020

**Gopinath Mahadani
Versus
The State Bank of India & Ors.**

Mr. Subrata Ghosh.

..For the petitioner.

Mr. Subrata Kumar Sinha.

...For the respondents.

The report in the form of an affidavit affirmed by the State Bank of India on 1st August, 2022 filed in Court today be taken on record.

The petitioner's father was an employee of State Bank of India (in short SBI) who died-in-harness on 2nd November, 1997. The petitioner's mother was offered employment on compassionate ground by the SBI vide a letter dated 29th August, 2000 duly received by the petitioner on 30th October, 2000.

The petitioner's mother, instead of accepting such offer of employment on compassionate ground, made a request to the SBI to consider the petitioner's case for compassionate appointment by a letter dated 4th November, 2000. The petitioner at that point of time as per his mother's version was aged about 15

years as will appear from the letter dated 4th November, 2000.

The petitioner's request was considered by the State Bank of India but the petitioner being a minor was not permitted to work. SBI, therefore, by a letter dated 10th April, 2001 after expressing their views regarding the request for compassionate appointment to the petitioner advised the petitioner's mother to join the Bank immediately. Even thereafter the petitioner's mother did not join SBI. Ultimately, by a letter dated 11th October, 2008, the petitioner's mother was offered to a lump sum on account of ex-gratia. The petitioner's mother did not accept the same and the petitioner pursued for compassionate appointment.

The petitioner says that since the petitioner was a minor at the time of death of his father as per the Scheme prevalent with effect from 6th March, 1992 in SBI, the offer of appointment of the petitioner was required to be kept open till he attained the age of majority.

SBI says that the Scheme which was prevalent on 6th March, 1992 was amended subsequently on 5th December, 1996. The Scheme, therefore, which was prevalent at the time of death of the petitioner's father was dated 8th January, 1997. The said Scheme provided that if the dependent is minor, his/her case

can be considered at the discretion of the Bank, within a maximum period of six years from the date of death/cessation of service on medical grounds of the employee. The Scheme was further updated upto 1st January, 1998. Under the updated Scheme, the minimum age of a dependent to seek compassionate appointment was made 18 years but no such age limit was prescribed in case of spouse. Updated Scheme, however contains a Clause in writing that in case of minor, the offer of appointment may be kept open beyond the period of four years upto a maximum period of six years from the date of death of the employee.

In the instant case the age of the petitioner, as disclosed by his mother vide letter dated 17th February, 2001 was about 15 years. The petitioner, therefore, as per such age declaration attained the age of 18 years in the year 2004. The petitioner, in the affidavit to this writ petition, however, says that he is about 24 years. There is as such a discrepancy in age as declared by the petitioner's mother and as claimed by the petitioner. The petitioner's father died on 2nd November, 1997. Six years period therefore ended on 1st November, 2003.

In 2003, the petitioner as per his declaration of age in the writ petition, the petitioner did not attain the age of 18 years. However, as per the declaration

given by his mother, the petitioner may or may not have attained the age of 18 years on 1st November, 2003. The writ petition has been admittedly filed on 10th January, 2020 i.e. after about 23 years from the date of death of the petitioner's father. The petitioner, according to his age declaration in the writ petition, i.e. 24 years was about one year in 1997 while according to the declaration by his mother, he was about 12 years in 1997.

Apart from the apparent discrepancy in age, the long delay on the part of the petitioner in approaching the Court and the provisions contained in the Scheme subsisting at the time of death of the petitioner's father disentitled the petitioner to claim compassionate appointment.

This is more so because the compassionate appointment is a solace to the bereaved family on the sudden crises arising out of the loss of the sole bread earner. The compassionate appointment, therefore, is required to be granted as expeditiously as possible fairly, which it is likely to frustrate the object of the Scheme.

The Hon'ble Supreme Court of India over the years have directed the employer to decide the issue of compassionate employment within a reasonable period of time. In view of such direction, the Schemes are framed by the employer with a cut off date for

making the application and also with cut off dates for considering the case.

In the instant case, since the Scheme provides for a time period of six years which has lapsed in 2003 when the petitioner may or may not have attained the age of majority, the petitioner cannot claim the appointment to be kept open and seek the same in the year 2020. The employer cannot also be blamed in the instant case as they had within a reasonable period from the death of the employee had offered compassionate appointment to the widow which the widow did not accept.

Taking into account all these factors and the over all situations, I find no merit in the writ petition. The writ petition is accordingly dismissed without, however, any order as to costs.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Arindam Mukherjee, J.)