

03.
08.08.2022
S.D.

W.P.A. 7032 of 2022

Surajit Mondal
Vs.
The Chairman, Paschim Banga Gramin Bank & Ors.

Mr. Amit Ranjan Roy
..For the Petitioner.

Mr. Baidurya Ghosal
Ms. Avipsha Dutta Roy
Ms. Aatreyee Dutta
..For the Respondent.

The report filed on behalf of the respondent no. 1 in terms of the previous direction of this Court is taken on record.

The petitioner's father Balaram Mondal was a regular employee of the Paschim Banga Gramin Bank (in short "P.B.G.B.") died- in-harness on 7th September 2018. The petitioner had made an application for compassionate appointment, which has not been disposed of till date. The petitioner, therefor, has approached this Court for a direction to grant compassionate appointment.

The compassionate appointment is not a matter of right. It is an exception carved out of the provision of Article 14 of the Constitution of India to provide solace to a bereaved family to tide over the crisis faced due to sudden loss of the sole bread earner. The compassionate appointment, therefor, has to be in

terms of a Scheme if prevalent in the employer concerned. It is also now settled that the Scheme for compassionate appointment has to be prevalent on the date of death of the employee as held by the Hon'ble Supreme Court in the judgment reported in **AIR 2022 SC 402 (The Secretary to Govt. Department of Education (Primary) & Ors. Vs. Bheemesh Alias Bheemappa)**.

In the instant case, affidavits have been invited from P.B.G.B. to ascertain whether there was any Scheme prevalent from granting employment on compassionate ground as on 7th September, 2018. Two Schemes have come forward as disclosed by P.B.G.B. One Scheme appears to be that of payment of ex gratia, which is dated 11/20-09-2007 and was to come into effect from 26th February 2007. Although compassionate appointment has been referred to the said Scheme but from Clause 3 thereof, it appears that such Scheme for compassionate appointment is a proposed Scheme. The Scheme, therefor, has to be a Scheme for payment of ex gratia. From the second affidavit affirmed by P.B.G.B., it appears that the Scheme for compassionate appointment has been adopted and made operational in P.B.G.B. with effect from 18th April, 2019, admittedly, this date is after the death of the petitioner's father. It is, therefor, apparent that there was no Scheme for compassionate appointment prevailing at the time of death of the petitioner's father. Unless there was a

Scheme for compassionate appointment, the prayer for the same cannot be either considered or be directed to consider.

The writ petition so far as it relates to compassionate appointment therefor fails. At the same time the petitioner cannot be left remediless when as admitted by P.B.G.B. there was a Scheme for payment of ex gratia. The dismissal of the writ petition will, however, not prevent the family of the deceased employee Balaram Mondal from claiming ex gratia as per the Scheme said to be operational from 26th September 2007. The petitioner shall make an application for ex gratia to P.B.G.B. by 26th August, 2022 either jointly with other family members or severally. In the event, such an application is made, the employer, P.B.G.B. shall without going into the delay in making the application, consider the same and grant ex gratia to the family of the deceased employee Balaram Mondal, if payable as per the prevalent Scheme at the time of his death within a period of three months from the date of making such application.

The writ petition is accordingly disposed of.

The parties shall act on the basis of a server copy of this order without insisting upon production of a Certified Copy thereof.

(Arindam Mukherjee, J.)

