

01.
20.09.2022.
Ct. No. 21.
F.B.

WPA 9031 of 2022

Rana Mallick & Anr.

-Vs.-

Paschim Banga Gramin Bank & Ors.

Mr. Malay Dhar,

Mr. Amar Nath Sen,

Mr. P. K. Ghosh,

Mr. Biswajit Sarkar

..... For the Petitioners.

Mr. Baidurya Ghosal,

Ms. Avipsha Dutta Roy

..... For the Respondents.

This is an application for issuance of a writ of mandamus directing the respondents/Paschim Banga Gramin Bank to consider the appointment of the writ petitioner no. 1 on compassionate ground after the death of his father on January 27, 2013. The writ petitioner no.1's father and the writ petitioner no.2's husband died-in-harness while working as a messenger-cum-sweeper with the bank in issue. Initially, the writ petitioner no. 2 made a representation on January 29, 2016 for appointment of her son/the writ petitioner no. 1 on the ground of compassionate appointment.

Thereafter, the writ petitioner no. 1 prayed for lump sum ex gratia payment vide several representations dated October 17, 2017, May 29, 2018, May 13, 2019 and November 14, 2019. The respondent

bank finally responded on February 20, 2020 to the several representations made by the petitioner no. 1. By the impugned order dated February 20, 2020 it was intimated by the Regional Manager to the Branch Manager of the bank in issue that the claim of the writ petitioner could not be entertained by the competent authority as it was submitted beyond a period of six months from the date of death of the employee.

After the said rejection, the writ petitioner no. 2 again made a representation on July 22, 2020 praying for reconsideration of the decision of denial of ex gratia payment of the petitioner no. 2.

Mr. Dhar, Learned Counsel appearing on behalf of the petitioners, submits that the prayer for ex gratia payment to the writ petitioner no. 2 should be considered, since the deceased employee belonged to the bank's lowest cadre and the writ petitioner no. 2 was unaware of the regulation/guideline of the bank. She also suffered extreme hardship due to the sudden death of her husband. The bank itself did not respond to the representations made by her since 2016 till 2020. He also refers to the amended scheme for appointment on compassionate ground dated April 18, 2019. Clause 8 of the amended scheme allows the bank to consider the requests for compassionate appointment for the period of five years from the date of death or retirement on medical grounds.

He submits that since belated request can be processed by the bank due to the amended scheme, in exceptional cases the bank also has the liberty to consider the belated request of the heirs of an ex-employee for appointment on compassionate ground or for ex gratia payment.

Mr. Ghosal, Learned Counsel appearing for the bank, submits that no scheme was applicable for consideration of belated request at the time of the death of the ex-employee. He relies on the decision reported in **2022(1) Supreme 100 Supreme Court of India (The Secretary to Govt. Department of Education (Primary) & Ors. -Vs.- Bheemesh Alias Bheemappa)** for the proposition that the schemes/rules that were applicable and on the date of death is to be considered for appointment on compassionate ground and not the scheme/rule which is applicable on the date when the application is considered.

Having considered the rival submissions of the parties and the materials place on record, this Court is of the view that the representation of the writ petitioner no. 2 dated July 22, 2020 should be considered by the General Manager of the Paschim Banga Gramin Bank being the appropriate authority giving a go bye to the requirement of six months when the bank itself has kept the representations pending since 2016/2017.

The said representation should be considered on merits due to the financial distress of the writ petitioners in accordance with the extant rules of the bank.

The said representation is to be considered within eight weeks from date and disposed of by reasoned order upon giving a personal hearing to the writ petitioner no. 2 or her delegated representatives.

The reasoned order is to be communicated within two weeks from the date of passing of the same.

In the light of the discussions above, this writ petition, being **WPA 9031 of 2022** is **disposed of**.

All parties to act in terms of the copy of the order downloaded from the official website of this Court.

Urgent photostat certified copies of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Lapita Banerji, J.)