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9.11.2022
S.D.

W.P.A. 9443 of 2022

**Shekhar Sarkar
Vs.
Bangiya Gramin Vikash Bank & Ors.**

Mr. Ziaul Haque
Mr. Manish Kumar Das

... For the Petitioner.

Mr. Baidurya Ghosal
Ms. Avipsa Dutta Roy

..For the respondent.

The petitioner claims to be appointed by way of compassionate appointment upon the death of his father who died-in-harness on April 2, 2021. The petitioner's father was a permanent employee of Bangiya Gramin Vikash Bank.

A report was directed to be filed by a Coordinate Bench of this Hon'ble Court. Report was filed by the respondent bank and an exception to the said report was taken by the petitioner.

Mr. Ziaul Haque, Leaned counsel appearing on behalf of the petitioner draws the attention of this Court to the calculation made by the respondent bank for the purpose of arriving to the conclusion that the petitioner is not entitled to compassionate appointment. He submits that the income of the unmarried daughter of the deceased cannot be taken into

account and the income received from the bank by way of family pension cannot also be taken into account while computation of the family income of the petitioner.

Mr. Ghosal, learned counsel appearing on behalf of the respondent bank submits that the issue regarding the computation of the family income by taking into account the terminal benefits received by the family of the deceased employee has already been adjudicated by a Coordinate Bench of this Hon'ble Court in **W.P.C.R.C. 112 of 2022 (Subhajit Bayen vs. Raj Kishore Sahoo)**, relying on a decision passed by the Hon'ble Apex Court reported in **(2019) 3 SCC 653 (State of Himachal Pradesh & Anr. Vs. Sashi Kumar)**.

It has been squarely adjudicated that the terminal benefits received by the family of the deceased will be taken into account while computation of the family income of the deceased. Therefore, it cannot be agitated now that the sum received by way of family pension cannot be taken into account while considering the income of the family.

Upon computation of the family income, the respondent bank has arrived at the conclusion that the family was not 'indigent' and, therefore, the petitioner's application

for compassionate appointment was reflected by the respondent bank.

Having heard the rival submissions of the parties and materials available in Court, this Court is of the view that the respondent bank has arrived at a conclusion after proper consideration of rules/regulation regarding an application for appointment on compassionate ground. The family pension received by the family of the deceased has to be considered while computing the family income. The income of the unmarried daughter who is living as a part of the family is to be taken into account while computing the family income.

In the circumstances aforesaid, the writ petition being **W.P.A. 9443 of 2022** is **dismissed** without any order as to costs.

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

Urgent photostat certified copy of this order be given to the parties upon compliance of all the formalities.

(Lapita Banerji, J.)

