

M/L
175
15.07.2022
adeb

W.P.A. 11656 of 2019

**Amiya Kumar Sarkar
Vs.
The Indian Bank & Ors.**

**Mr. Soumik Ganguly
Mr. Dilip Kumar Sadhy
Ms. Chandana Chakraborty**

...for the petitioner

Mr. Fazlul Haque

..for the Bank

In the present writ petition challenge has been thrown to order dated 13th May, 2019 issued by the Assistant General Manager and Zonal Manager, Bardhaman, Indian Bank, pursuant to the order of the coordinate Bench dated 15th February, 2019 passed on a writ petition being WP 22555 (W) of 2016 (Amiya Kumar Sarkar Vs. Indian Bank & Ors.). It has been submitted on behalf of the petitioner that father of the petitioner died in-harness on 30th July, 2006 who was working in the post of clerk in Balurghat Branch of Indian Bank. After the death of the petitioner's father an application was made for appointment of the petitioner being the dependent son on compassionate ground which was spurned by the bank authority vide letter dated 16th October, 2006.

It has been contended on behalf of the petitioner that the refusal to grant appointment on compassionate ground vide impugned letter dated 13th May, 2019 is not tenable. However, on perusal of such letter it appears that application for appointment of the petitioner was considered and rejected vide letter dated 16th October, 2006 since at the material point of time there was no provision for grant of appointment on compassionate ground. However, mother of the petitioner was informed to make an application for payment of ex-gratia due to untimely death of her husband.

It has also been submitted on behalf of the petitioner that terminal benefits was not paid from the date it was required to be paid, but released from later date.

Mr. Fazlul Haque, learned advocate appears on behalf of the bank authority and files affidavit-in-opposition to the writ petition, which is taken on record. It has been submitted on behalf of the bank authority that the application for appointment of the petitioner on compassionate ground had to be rejected vide letter dated 16th October, 2006 since there was no provision for grant of appointment on compassionate ground. However, petitioner's mother availed benefit of ex-gratia payment and sum of Rs. 4,62,942/- was paid to the

widow. Therefore, it has been submitted that relief claimed on behalf of the petitioner may not be entertained.

This Court has heard the learned advocates representing the parties and perused the materials available on record. It appears that on death in-harness of the father of the petitioner the widow of the deceased employee availed the benefit of ex-gratia in lieu of compassionate appointment and to that extent an amount of Rs. 4,62,942/- was paid.

It is well settled that compassionate appointment is not a vested right, it is an exception and such benefit can only be extended to the applicant if the scheme provides such appointment. In the present case since in lieu of compassionate appointment petitioner's mother got the benefit of ex-gratia therefore question of further consideration of the application for appointment of the petitioner on compassionate ground does not arise.

Accordingly, the writ petition stands dismissed.

However, this order shall not preclude the recipients of terminal benefits to take steps in accordance with law in the event less amount is paid towards such benefits.

However, there shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)