



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD)No.15499 of 2021

and

WMP No.12414 of 2021

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Kalaiselvi @ Kalaiselvam

... Petitioner

Vs.

1.The Chairman and Executive Director

Canara Bank

Head Office

No.112 J.C.Road

Bangalore 2

2.The Assistant General Manager

Canara Bank

HRM Section

Circle Office

East Veli Street,

Madurai 625 001.

3.The Manager

Canara Bank

Melur Branch

Madurai District.

... Respondents

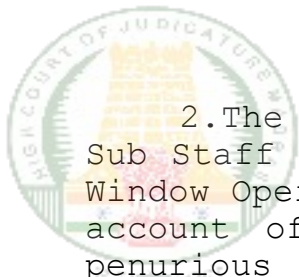
PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order bearing Ref.No.MDU/CHRM 886 Comp.APPT 2018 dated 15.03.2018 issued by the 2nd respondent and quash the same as illegal and arbitrary and consequently direct the respondents to issue an order of appointment on compassionate grounds to the petitioner's son Amarnath, based on the 2nd representation/application dated 21.12.2019.

For Petitioner : Mr.R.Murugan

For Respondents : Mr.N.Dilipkumar

ORDER

The order of rejection rejecting the claim of the writ petitioner for compassionate appointment in proceedings dated 15.03.2018 is under challenge in the present writ petition.



2.The husband of the petitioner Mr.N.Panneerselvam joined as a Sub Staff in the respondent bank and subsequently working as Single Window Operator/Clerical cadre and died in harness on 01.09.2016. On account of the sudden death of an employee, the family was in penurious circumstances. The petitioner submitted an application seeking appointment on compassionate ground on behalf of her son Amarnath. The said application submitted by the petitioner was scrutinized by the respondent bank and rejected on the ground that the son of the petitioner Mr.Amarnath has not been suitable favourably, as the financial condition of the dependant is satisfactory and there are no mitigating factors to consider the application on compassionate ground. The said mitigating factors are elaborated by the respondents in their counter affidavit in Paragraph No.4(c) and (d):

"c.While processing the application for compassionate appointment, the respondent bank has sought for certain details from the petitioner like employment and income of the dependants and also educational qualifications etc. vide letter in Ref. No.MDUC HRM 4415 E9 2017 dated 21.08.2017. For which the petitioner has given a reply vide her letter dated 25.09.2017, wherein, it is mentioned that the petitioner's unmarried daughter Miss.P.Uma Devi is having an educational qualification of M.Sc., and M.Phil and both her son and daughter viz. Shri P.Amarnath for whom the compassionate appointment is sought for and Miss.P.Uma Devi are conducting a tuition centre and they are earning a monthly income of Rs.5000/- (Rupees Five Thousand) from the tuition. The petitioner further stated that her elder son Shri.P.Kesavan is working as daily wager and he is earning an amount of Rs.6000/- (Rupees Six Thousand) per month.

d.However, the respondent Bank had conducted a discreet enquiry into the matter which revealed that Shri.P.Kesavan who had been working as daily wager at Madurai Grand Central Branch is getting an emolument of Rs.12,500/- (Rupees Twelve Thousand Five Hundred only) per month. Shri.P.Amarnath was working as a distributor of M/s.Charak Pharma with a monthly emolument of Rs.10,000/- (Rupees ten thousand only) and Miss.P.Uma Devi is working as a Lecturer at Mannar College and she is earning an amount of Rs.8100/- (Rupees eight thousand and one hundred only) per month. The enquiry report dated 14.12.2017 is annexed in the typed set."

3. The learned counsel for the petitioner made a submission that the first son of the petitioner is working as a daily wager and earning a meagre amount. The second son is employed in a private concern and therefore, the income is insufficient to meet out the expenses of the family. The daughter is working as a Lecturer by



getting a salary of Rs.8,100/- and therefore, the case of the petitioner is to be considered.

4. The claim of compassionate appointment cannot be claimed as a matter of right. The claim of compassionate appointment is violative of Articles 14 and 16 of the Constitution of India, as the appointments are provided merely based on the death of an employee. There is no assessment of merit and ability or suitability or otherwise. Therefore, such appointments are to be granted in a restricted manner only to the deserving family. The scheme cannot be expanded so as to provide one appointment to the family of the deceased employee. The assessment of indigenous is paramount importance and in the present case, the respondent bank has rejected the application, considering the facts and circumstances that the family is not a deserving family. The elder son of the petitioner is already working in the Canara bank as temporary employee and drawing a salary of Rs.12,500/- per month. Admittedly, the second son Mr.Amarnath is working in Pharma Company and the daughter is working as Lecturer in a College. Therefore, all the three legal heirs are earning members of the family.

5. Sufficiency or insufficiency of the income cannot be the consideration, as the needs are depending on the family expenses. Therefore, the need alone cannot be the ground to provide appointment on compassionate grounds. Needs are depending on the lifestyle and the other aspects of the family. However, while considering the application for compassionate appointment, the family situation is to be considered. In the present case, the authorities have conducted an enquiry in respect of the educational qualification and the employment of all the legal heirs. The contention of the petitioner that all of them working as temporary employees and in a private sector may not be a ground to extend the appointment on compassionate ground. Whether a legal heir is working in a private concern or a pharma sector is immaterial.

6. The point to be considered is whether they are earning member or not. Once the legal heirs are the earning members of the family, it would be sufficient to reject the application. Sufficiency of the income need not be gone into, as the scheme is not to provide employment to the legal heirs of the deceased employee. The claim is only to mitigate the circumstances arising on account of the sudden death of the employee. Thus, the claim is to be extended only to the most deserving family and in the event of extending the claim, the same would deprive the opportunity of the eligible persons, who are all aspiring to seek employment. Equal opportunity in public employment is a constitutional mandate.

7. Recruitments are to be conducted and appointments are to be made in accordance with the rules and by providing equal opportunity to participate in the process of selection and therefore, in the



assessment are affected. Accordingly, this Court do not find any infirmity in the order impugned and the writ petition is dismissed. No costs. Consequently connected Miscellaneous Petition is closed.

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Sd/-

Assistant Registrar (CS-III)

/ /2022

Sub Assistant Registrar(CS)

RR

+1 CC to M/s.N.DILIPKUMAR, Advocate (SR-10718[F] dated 08/03/2022)

ORDER MADE IN

W.P. (MD) No.15499 of 2021

07.03.2022

KG (CO)

GC (21.03.2022) 4P 2C