IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP No. 2591 of 2020
Date of decision : 8.4.2022

Raghbiro and another ……Petitioners

Vs.

Canara Bank and others ……Respondents

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Mohit Rathee, Advocate, for the petitioners

Mr. Nitin Gupta, Advocate, for the respondents

Rajbir Sehrawat, J. (Oral)

This is a petition filed under Articles 226/227 of the Constitution of India seeking issuance of a writ of certiorari to quash the impugned orders dated 18.8.2018 (Annexure P-3), 19.11.2018 (Annexure P-5) and 7.8.2019 (Annexure P-6), the same being against the Scheme Annexure P-1. It is also prayed that the respondents be directed to give compassionate appointment to petitioner No.2 or otherwise, give the ex-gratia amount i.e. Rs. 6 lakhs to the petitioners, as per the Scheme Annexure P-1.

The facts of this case; stated briefly; are that the father of petitioner No.2 was serving as Daftari with the respondent bank. He died on 29.12.2016 while in service. Under the policy of the respondent bank, petitioner No.2 had applied for compassionate appointment with the respondent bank. However, the same was declined by the respondent bank. Again, petitioner No. 2 had approached the respondent bank for re-consideration. However, even on re-consideration, the claim of petitioner No.2

has been declined. Accordingly, the orders declining the compassionate appointment to petitioner No.2 have been challenged in the present petition.

Arguing the case, counsel for the petitioners has submitted that petitioner No.2 is having the educational qualification of MBA and is eligible for any employment in the bank. The respondent bank has wrongly declined the compassionate employment to the petitioner No.2. Counsel has further submitted that the respondent bank has declined the compassionate appointment to petitioner No. 2 only on the ground that his mother was getting an amount of Rs. 12,943/- as family pension. However, the family pension cannot be counted as an income for the purpose of compassionate employment. Counsel has relied upon the judgment of the Hon'ble Supreme Court rendered in **'Govind Prakash Verma v. Life Insurance Corporation of India & others, 2005 (10) SCC 289, Canara Bank & another v. M. Mahesh Kumar; 2015 (3) SCT 186, Supriya Suresh Patil @ Sow Supriya Pratik Kadam v. State of Maharashtra and others; 2018 (17) SCC 67, 'State of Himachal Pradesh and another v. Shashi Kumar; Civil Appeal No. 988 of 2019** arising out of **SLP (C) No. 7079 of 2016** and in the case of '**Balbir Kaur vs Steel Authority of India Ltd.', AIR 2000 SC 1596'**. Still further, counsel has submitted that the respondent bank had demanded certificate of income from petitioner No.2 at the time of re-consideration. Petitioner No.2 duly obtained the certificate of family income from the Sub Divisional Officer (Civil), Rohtak and had submitted to the respondent bank. As per that certificate, the annual family income of the petitioners is Rs.2,11,000/- including the amount received on account of family pension. Therefore, minus the family pension, the income of the family is only about Rs.30,000/- per annum. This corroborates the fact that the family of the petitioner is indigent and petitioner No.2 is fully entitled to be considered for appointment on compassionate grounds, subject to the other conditions of educational eligibility. Hence, it is submitted that the impugned orders passed by the respondent bank are totally wrong and illegal. The same deserves to be set aside. The respondents deserves to be directed to appoint petitioner No.2 in the bank.

On the other hand, counsel for the respondents has submitted that as per the policy of the respondent bank, it is indigent status of the family which is required for consideration for compassionate appointments. However, since the mother of petitioner No.2 is drawing a handsome amount of more than Rs.15,000/-per month as family pension, therefore, it cannot be said that the family of the petitioners is indigent family. Accordingly, the case of petitioner No.2 is rightly declined on this ground. Counsel has further submitted that the petitioners themselves have submitted the certificate of income from the Sub Divisional Officer (Civil), Rohtak, according to which the family income of the petitioners is Rs. 2,11,000/- per annum. Hence, there is nothing wrong in denying the compassionate appointment to petitioner No.2. The family of the petitioners is not in financial constraints, therefore, the respondent bank cannot offer compassionate appointment.

Having heard counsel for the parties, this Court finds substance in the arguments of counsel for the petitioners. A perusal of the initial order passed by the respondents itself show that the claim of petitioner No.2 has been declined on the ground that his mother is getting family pension of more than Rs.12,000/-. Therefore, the essential basis taken up by the respondents for declining the compassionate appointment to petitioner No.2 is; the receipt of family pension by the mother of petitioner No.2. However, the family pension cannot be taken as part of the income while considering the case for compassionate appointment. This has been so held by the Hon'ble Supreme Court in **Govind Prakash Verma's case, M. Mahesh Kumar's case, Supriya Suresh Patil @ Sow Supriya Pratik Kadam's case**, **Shashi Kumar's case** and **Balbir Kaur's case** (supra). Not only that, even this Court has held in its judgment dated 5.4.2022 rendered in CWP No. 21523 of 2018 titled as '**Keshav Sidhu v. Bank of Baroda through its Managing Director, Corporate Office, Mumbai and others'** that the family pension received by the spouse of the deceased employee is in his/her own right under the statutory rules and that cannot be taken as an income for determination of the indigent status of the family, as such. Moreover, even the policy of the respondent bank has clarified that the terminal benefits granted to the family member of the deceased employee, including the ones granted under the welfare scheme, shall not be included in the income of the family, while considering the case of an applicant for compassionate appointment. Hence, the orders passed by the respondent bank are totally illegal and against their own instructions.

Although counsel for the respondent bank has highlighted the income certificate produced by the petitioners, which shows the family income of the petitioners as Rs.2,11,000/- per annum, to submit that the said income does not indicate that it includes a family pension being received by the mother of petitioner No.2. The said income, as reflected in the certificate is other than the family pension being received by mother of petitioner No.2. However, the record shows otherwise. Petitioner No.2 has clarified the situation in Para No.5 of the writ petition, wherein it has been mentioned that total income of the family is about Rs.18,000/- per month, including the family pension of Rs. 13,585/- being received by his mother. This assertion has not even been disputed by the respondents in the written statement. Out of the said income, an amount of Rs.8000/- is stated to be spent as rent for the house only. Therefore, keeping in view the meager income of the family, seen with the liabilities thereof, it cannot be said that the status of the family is anything above the indigent family, in terms of the compassionate appointment policy of the respondent bank.

In view of the above, the present petition is allowed. The impugned orders are set aside. The respondent bank is directed to offer the appointment to petitioner No.2; subject to fulfilling the other eligibility conditions qua age as on the date of making of the application and educational qualifications. The needful be done within a period of two months from today.

(RAJBIR SEHRAWAT)
JUDGE

8.4.2022
Ashwani

Speaking/Reasoned	:	Yes/No
Reportable	:	Yes/No