

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3876 of 2023

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1. Rambha Devi Wife of Late Daya Shankar Tiwari, Resident of Village-Madhubani Ghat, P.S.-Muffasil Motihari, District-East Champaran.
 2. Dinbandhu Raj, son of Late Daya Shankar Tiwari, Resident of Village-Madhubani Ghat, P.S.-Muffasil Motihari, District-East Champaran.

... .. Petitioner/s

Versus

1. The Chief General Manager, State Bank of India Local Head Office, West Gandhi Maidan, Patna.
2. The Assistant General Manager (HR), State Bank of India, 8th Floor, Local Head Office, West Gandhi Maidan, Patna.
3. The Chief Manager (HR), State Bank of India, Administrative Office, Muzaffarpur.
4. The Regional Manager, State Bank of India, Regional Business Office, East Champaran, Motihari.
5. The Branch Manager, State Bank of India, Branch-Pakridayal, East Champaran, Motihari.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Shashi Bhushan Pandey
For the Respondent/s : Mr.Namrata Mishra

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT

Date : 26-04-2023

Heard learned counsel for the petitioners and learned counsel for the respondent Bank and its authorities.

2. Petitioners in the present case are seeking a direction to the respondent authorities to appoint the petitioner no. 2 as an employee in the State Bank of India on compassionate ground.



Brief facts of the case

3. The father of the petitioner no. 2 died on 02.03.2018 in harness. As per the statements made in the writ application, the mother of petitioner no. 2 filed a representation dated 17.09.2022 to the respondent authorities for appointment of petitioner no. 2 on compassionate ground. Petitioner no. 2 has also submitted an application to the same effect. It is stated that the application of the petitioner no. 2 was forwarded to the Regional Manager, State Bank of India, Motihari on 18.09.2022.

Submissions on behalf of the Petitioners

4. Learned counsel for the petitioners submits that by communication contained in Annexures '7', '8' and '9' respectively, the Chief Manager (IR), Chief Manager (HR) and the Regional Manager of the Bank have communicated to the Chief Manager (HR), the Regional Manager and the Branch Manager respectively that the applicant of the deceased employee does not fulfill the eligibility criteria for recruitment on compassionate ground as the employee was deceased on 02.03.2018 and the cases of Covid-19 death on or after 24.03.2020 and other cases on or after 24.02.2021 shall only be considered under the scheme.

5. Learned counsel for the petitioners submits that the petitioner no. 2 has been served with a letter dated 03.01.2023



(Annexure '10') under signature of the Branch Manager wherein he has been informed that his request for recruitment on compassionate ground has been declined by the competent authority as he was not found eligible.

Submissions on behalf of the Bank

6. Ms. Namrata Mishra, learned counsel for the Bank has opposed this writ application. It is submitted that the husband of petitioner no. 1 died on 02.03.2018 in harness. After his death, as per scheme of the Bank, the petitioner no. 1 was paid the ex-gratia payment and the other death-cum-retiral benefits of the deceased employee were paid to the petitioner no. 1. It is stated that on the date of death of the husband of petitioner no. 1, there was no scheme of the Bank providing for appointment on compassionate ground.

7. Learned counsel submits that there is nothing on the record to show that there was any scheme of the Bank for appointment on compassionate ground at the relevant time. In fact, on perusal of Annexure '2' to the writ application, it will appear that the husband of the petitioner no. 1 was a defence personnel who was also getting defence pension and upon death of her husband, the petitioner no. 1 received ex-gratia payment which she is now offering to return with interest.



8. Learned counsel for the Bank submits that in view of the unprecedented situation of Covid-19 pandemic, the Bank had come out with a scheme whereunder in case of death of an employee of the Bank on or after 24.03.2020 (during the Covid period) or after 24.02.2021, their dependents would be considered for appointment on compassionate ground. This scheme was limited to the cases of death which had occurred during the unprecedented Covid-19 situation.

9. Learned counsel submits that by no stretch of imagination, the case of the petitioners would be covered under the scheme, therefore, Annexures '7', '8' and '9' as also the communication to the petitioner as contained in Annexure '10' need not be interfered with.

10. At this stage, learned counsel for the petitioners has relied upon a judgment of the Hon'ble Division Bench of this Court in **LPA No. 50 of 2018 (Abha Singh Vs. The State Bank of Hyderabad and Others)**. It is stated that the case of the petitioners would be covered by the judgment of the Hon'ble Division Bench, however, it has been contested by learned counsel for the Bank saying that in the said case, the husband of the appellant had died on 13th December, 2014 while working in the State Bank of Hyderabad. As a matter of fact, the State Bank of Hyderabad had a scheme for appointment on compassionate



ground in exceptional cases and on the date of death of the husband of the appellant, the said scheme was in force. It is submitted that it would appear from the scheme itself that the Government of India had advised that all public sector banks can have both the options i.e. compassionate appointment or payment of ex-gratia lumpsum amount. The State Bank of Hyderabad had decided to continue with the scheme for compassionate appointment in exceptional circumstances with certain modifications in terms and conditions whereas in the present case, the Bank had no scheme for compassionate appointment and the only option which was prevailing in the State Bank of India was the payment of ex-gratia lumpsum amount. The judgment of the Hon'ble Division Bench has, thus, been sought to be distinguished.

Consideration

11. Having heard learned counsel for the petitioners and learned counsel for the Bank as also on perusal of the records, this Court finds that the petitioner no. 2 has though been served with communication dated 03.01.2023 informing him that his request for appointment on compassionate ground has been declined, in the writ application no prayer has been made to quash and cancel the said communication.



12. A writ in the nature of Mandamus has been sought for but without establishing any legal right of an appointment on compassionate ground. There is no statement in the writ application that at the relevant time when the husband of the petitioner no. 1 died in harness, the Bank had any scheme for appointment on compassionate ground. All that is stated is that the petitioner no. 1 had given a representation for appointment of petitioner no. 2 on compassionate ground on 10.12.2022 i.e. after more than four years of the death of her husband.

13. Admitted position is that the petitioner no. 1 had received the ex-gratia lumpsum amount and during the period of four years she never raised any issue of appointment on compassionate ground. The application for appointment was made when the Bank came out with a scheme which was specially meant for the employees who died during the unprecedented situation of the pandemic Covid-19.

14. Learned counsel for the Bank is categorical in saying that at the time of death of the husband of petitioner no. 1, there was no scheme of appointment on compassionate ground, therefore, this Court is of the considered opinion that the facts of the present case are clearly distinguishable from the facts of the



case of **Abha Sinha (Supra)** on which reliance has been placed on behalf of the petitioners.

15. This application has no merit. It is dismissed accordingly.

(Rajeev Ranjan Prasad, J)

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AFR/NAFR	
CAV DATE	
Uploading Date	27.04.2023
Transmission Date	

