IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13107 of 2022

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Rozi Khatoon D/o Late Akram Kharshid Resident of Village and P.O.- Chandradei, P.S.-Distt.-Araria.

... ... Petitioner

Versus

1. Chairman, Head office, Uttar Bihar Gramin Bank, Kalambagh Chowk, Muzafarpur, Bihar.
2. General Manager, Head Office, Uttar Bihar Gramin Bank, Kalambagh Chowk, Muzaffarpur, Bihar,
3. Regional Manager, Regional Office, Uttar Bihar Gramin Bank, Deo Market, Purab Bazar, Saharsa, Bihar,
4. Regional Manager, Uttar Bihar Gramin Bank, Regional Office, Muzaffarpur, Bihar.
5. Regional Manager, U.B.G.B., Regional Office, Araria, Bihar.
6. Regional Manager, U.B.G.B., Regional Office, Motihari.

... ... Respondents

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Appearance :

For the Petitioner/s	:	Ms.Punita Kumari Singh, Advocate
For the Bank	:	Mr.Mahendra Pathak, Advocate
		Mr.Nagendra Upadhayay, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

3 13-03-2023 Heard learned counsel for the petitioner and learned counsel for the Bank.

2. This writ application has been filed for issuance of a writ in the nature of a writ of *certiorari* to quash and cancel the order dated 02.11.2020 (Annexure '5' to the writ application) whereby and whereunder the claim of the petitioner for her appointment on compassionate ground has been rejected on the solitary ground that in the Gramin Bank the policy, as contained in NABARD's letter No. NB.IDD.RRB/1217/316 dated 09.01.2019, is effective from 21.05.2019.

3. Learned counsel submits that earlier this petitioner had joined as one of the petitioners in CWJC No. 20345/2021. This petitioner was petitioner no. 4 in the said writ application but because of the stamp report objection the reliefs prayed in the said writ application was confined in respect of only one of the petitioners namely, Rajat Kumar. It is for this reason that separate writ applications have been filed by the other petitioners and four of such writ applications are listed today for consideration.

4. Learned counsel submits that in the case of Rajat Kumar, the learned writ court has already considered the submissions advanced on behalf of the Bank and having taken note of the judgment of the Hon'ble Division Bench in LPA No. 649/2017 (Central Bank of India Vs. Urmila Devi), the learned writ court has held that the similar submissions advanced on behalf of the Bank having been negated under identical circumstances, it does not merit any consideration to support the rejections of the petitioner's claim.

5. Learned counsel submits that similar reliefs be granted to the petitioner in the present case as well.

6. Learned counsel for the Bank is present and has prayed for an adjournment, however, considering the facts and circumstances of the case, this Court is of the considered opinion that the case of the petitioner is similarly situated with that of Rajat Kumar in whose respect the reliefs prayed in CWJC No. 20345/2021 was restricted. The sole reason provided for rejection of the claim of the petitioner in Annexure '5' is the same and one which was available in the case of Rajat Kumar and this Court had occasion to consider the same. The relevant part of the consideration as contained in paragraph '4' to '8' of the order dated 07.12.2022 passed in CWJC No. 20345/2021 are being reproduced hereunder for ready reference:-

> "**4.** It is submitted that Clause 8.1 provides for consideration of grant of compassionate appointment up to five years from the date of death or retirement on medical grounds. Clause 8.2 provides for consideration of even belated claims, but at the Board level. The submission is that in view of Clause 8.1, the petitioner's father demise being within five years from 21.05.2019, the petitioner is entitled to consideration of his claim.
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> **5.** The learned counsel for the bank, on the other hand submits that the petitioner cannot claim any consideration till such time the Scheme has become effective i.e., on 21.05.2019 and, therefore, the petitioner's reliance on Clause 8.1 is clearly unsustainable.
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> **6.** The petitioner's counsel placed reliance on a Division Bench judgment of this court in the case of the ***Central Bank of India vs. Urmila Devi*** and analogous cases arising out of ***LPA No. 649 of 2017*** dealing with similar arguments advanced on behalf of the Bank to resist the

claim for compassionate appointment, the Division Bench held as follows:-

> *"As far as all three employees were concerned, even if their cases do not fall under Clause (a) of the Scheme, 2007, we find that their cases would fall under Clause 8.1. of the Scheme of 2014, as the incident in question took place on 04.10.2012 and their cases of employment under the Scheme has to be considered up to five years from the date of death or retirement on medical ground etc. It is the contention of the Bank before us and Sri Ajay Kumar Sinha, learned counsel appearing for the Bank, vehemently argued that the Scheme in question of the year 2014 has come into force with effect from 05.08.2014 and, therefore, only if the accident occurs after 05.08.2014, then their cases can be considered five years from the date of coming into force of the Scheme. If such a contention is accepted, then clause 8.1. would be redundant. It would not cover any case where death occurred prior to 05.08.2014. It would only apply in cases where death occurs five years after 05.08.2014. This could never be the intention of the formulator of the Scheme. The clause 8.1. of the Scheme of 2014, in our view, was introduced for granting benefit of compassionate appointment in such cases where death occurred within five years from the date of coming into force of the Scheme of 2014 and not after 05.08.2014. The learned Writ Court has also considered this aspect of the matter and has directed for considering the case of the employees under these clauses and we see no error in the same warranting*

reconsideration.

In our considered view, the purpose of incorporating clause 8.1. in the Scheme of 2014 would only be for giving benefit of compassionate appointment in cases where death occurs five years prior to coming into force of the Scheme and if the contention advanced by the Bank is accepted, we are of the considered view that Clause 8.1. of the Scheme of 2014 need not be incorporated in the manner it has been done. Accordingly, finding no merit, we dismiss the appeals."

7. The petitioner, therein was, therefore, found entitled to consideration of her claim under Clause 8.1 of the Scheme. The order of the Division Bench was unsuccessfully challenged by the Bank, which is evident from the order dated 13.08.2019, passed in Special Leave to Appeal(C) Nos. 31878-31879/2017, copy of the order which has been handed over is being retained in the file. The Court, therefore, would find that the submissions advanced by the learned counsel for the Bank having been negated under identical circumstances, does not merit any consideration to support the rejection of the petitioner's claim, under the impugned order dated 27.07.2020. The order being unsustainable for the reasons recorded above is hereby quashed. The Bank should consider the petitioner's claim in light of Clause 8.1 of the Scheme dated 07- 06-2019, by a reasoned and speaking order.

8. The writ application is allowed with the above noted observation/direction. Let the final order be passed by Chairman, (Respondent No.1), on the petitioner's claim within a period of three months from the date of receipt/production of a copy of this order."

7. The case of the petitioner being identically situated, this Court thinks it just and proper to quash and cancel the impugned order as contained in Annexure '5' to the writ application and the same is, accordingly, quashed.

8. Let the case of the petitioner be also considered by the Chairman (respondent no. 1) and/or other competent authority, as the case may be, within a period of three months from the date of receipt/production of a copy of this order. The consequential order must be issued within the said period, failing which the petitioner will be at liberty to initiate appropriate action.

9. This writ application is allowed.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

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