

IN THE HIGH COURT AT CALCUTTA

(Civil Appellate Jurisdiction)

APPELLATE SIDE

Present:

The Hon'ble Justice Subrata Talukdar

And

The Hon'ble Justice Supratim Bhattacharya

MAT 1611 of 2022

With

IA No. CAN 1 of 2022

Mousumi Sinha

-Vs.

The Union of India & Ors.

Appellant-in-person : Ms. Mousumi Sinha

For the UCO Bank : Mr. Soumen Das

Mr. Sourjya Roy

For the Union of India : Ms. Rama Ghosh Dastidar

Heard On : 01.05.2023

Judgement Delivered On : 27.06.2023

Supratim Bhattacharya, J.:-

1. The instant appeal has been preferred by Mousumi Sinha the daughter of a Bank employee since deceased. The appellant herein was the writ petitioner.
2. The respondents herein were the respondents in the writ petition.
3. The instant appeal has been preferred against the Judgement and Order dated 22.8.2022 in the writ petition being WPA 30558 of 2016.
4. Through the impugned Judgement and order the Hon'ble Single Bench has been pleased to reject the prayer of the writ petitioner praying for compassionate appointment.
5. The fact of the lis is that, the father of the appellant namely Sankar Kumar Sinha since deceased was appointed in the credit monetary department of the UCO Bank. The said employee was diagnosed to be suffering from cancer in the year 2010 and ultimately he succumbed to such ailment on 14.10.2011, while he was in service.

Subsequent to the demise of the said employee the spouse of the employee, that is the mother of the appellant prayed for financial support. Thereafter on 18.7.2016 the writ petitioner prayed for compassionate appointment of herself. In response the UCO Bank informed that the matter was closed. After receiving the said notice of rejection the appellant once again sent a notice dated 03.08.2016 through her Ld. Advocate to the Chief Manager UCO Bank praying for

compassionate appointment. Thereafter the UCO Bank replied the appellant on 23.8.2016 denying her request stating that the writ petitioner is not eligible for appointment on compassionate ground. Being aggrieved by and dissatisfied with the reply of the UCO Bank the appellant/ writ petitioner preferred a writ petition being WPA 30558 of 2016.

- 6.** The appellant/writ petitioner has appeared in person, she has categorically stated that her father since being detected as a patient of cancer in the year 2010 had to be admitted and treated in several hospitals and his treatment continued in the home, for which huge expenses had to be borne till the untimely death of her father on 14.10.2011, while in service. She has further submitted that major portion of the savings of her father has been spent for his treatment, as such the financial condition of her mother and herself is not at all good, instead they are somehow proceeding through extreme financial crisis. She has further submitted that she being the daughter of the employee since deceased, who has died in harness is entitled to appointment on compassionate ground. Banking on the aforesaid facts and circumstances the appellant/writ petitioner prayed for allowing the instant appeal by setting aside the Judgement and order of the Hon'ble Single Bench.
- 7.** The Ld. Counsel appearing on behalf of the UCO Bank has during his elaborate submission, led stress on the circular of the UCO Bank dated

07.11.2007. Relying upon the said circular the Ld. Counsel has submitted that compassionate appointment is provided in certain exceptional cases to the dependents of deceased employee where an employee dies while performing official duty as a result of violence, terrorism, robbery or dacoity or dies within 5 years of his first appointment or before he reaches the age of 30 years, whichever is later, leaving a dependent spouse and/or minor children. He has further submitted that the UCO Bank has passed a further circular dated 29.9.2014 in regard to scheme for compassionate appointment in bank. He has further submitted that through the said circular dated 29.9.2014 the effectivity of the circular dated 07.11.2007 has been further extended. The Ld. Counsel banking upon the aforementioned two circulars has submitted that the appellant/writ petitioner is not entitled to compassionate appointment under the facts and circumstances of this case and has prayed for dismissal of the instant appeal.

8. Thus, the crux of the instant lis is as to whether the appellant/writ petitioner is entitled to compassionate appointment or not. The employee since deceased expired on 14.10.2011, so the rules which was prevailing at that point of time was the rules laid down in the circular dated 07.11.2007 which was adopted the UCO Bank. The said circular dated 07.11.2007 lays down as follows:

“3. Short Title of the Scheme:

(A) The Scheme for grant of ex-gratia will be applicable in the following cases of employees:

- i) *Employee dying in harness (other than due to injury sustained while performing official duty as a result of violence, terrorism, robbery or dacoity).*
- ii) *Employee dying due to injury sustained while performing official duty within or outside office premises (other than due to violence, terrorism, robbery or dacoity and excluding travel from residence to place of work and back).*
- iii) *Employee seeking premature retirement due to incapacitation before reaching the age of 55 years.*

B) The Scheme of compassionate appointment will be applicable in the following cases:

- i) *Employee dying while performing his official duty as a result of violence, terrorism, robbery or dacoity.*
- ii) *Employee dying within five years of his first appointment or before reaching the age of 30 years, whichever is later leaving a dependent spouse and/or minor children.*

4. Ex-gratia payment:

- i) *In the cases as in Para 3(A) ex-gratia amount will be paid to the family of the deceased employee if eligible and if requested for within six months from the date of the death of the employee. The family shall be in indigent or penurious circumstances.*
- ii) *Ex-gratia may be granted to the family of the employee in the manner and subject to the ceiling specified below, if the monthly income of the family from all sources is less than 60% of the last drawn salary (net of taxes) of the deceased employee."*

Thus, from the said circular it reflects that compassionate appointment is applicable only when an employee dies while performing his official duty, as a result of violence, terrorism, robbery or dacoity or the employee dies within 5 years of his appointment or before reaching the age of 30 years, whichever is later, leaving a dependent spouse and /or minor children. In the instant case neither of the conditions are being fulfilled. As such the prayer of the appellant/writ petitioner for compassionate appointment cannot be allowed.

The Circular No. CHO/PMG/23/2014-15 dated 29.9.2014, in respect of scheme for compassionate appointment in bank, issued by the

then General Manager Personal Services, UCO Bank has categorically laid down as follows:

“All the pending applications/cases, where death occurred prior to 05.08.2014, will be dealt in terms of the circular No. CHO/PMG/24/2007-08 dated 07.11.2007.”

As such the circular of 2014 as regards to scheme for compassionate appointment for bank reinforces the circular dated 07.11.2007. The appellant/writ petitioner does not fall within the guidelines laid down in the circular dated 07.11.2007.

9. The Hon'ble Single Bench while passing the impugned order of rejection of the writ petition has laid emphasis on the scheme dated 07.11.2007. It has been discussed that the deceased employee had not died under the situation, facts and circumstances as enumerated under the Rule 3 of the said scheme which gave the right to obtain compassionate appointment, as such the rejection of the prayer for compassionate appointment by the UCO Bank was just and lawful.

The Hon'ble Single Bench has also analyzed the clause 4 of the scheme of 2007 wherein it reflects that ex gratia may be granted to the family of the employee in the manner and subject to the ceiling specified therein, where if the monthly income of the family from all the sources is less than 60 % of the last drawn salary (net of taxes) of the employee since deceased, then the family is entitled to receive ex gratia payment. The Hon'ble Single Bench has come to the finding that, from the

disclosures by the writ petitioner it reveals that the writ petitioner or her mother did not qualify the criteria as laid down under clause 4 of the 2007 scheme as such the writ petitioner is also not entitled to ex gratia payment. The Hon'ble Single Bench thus has come to the finding that the prayer of the writ petitioner is not to be allowed and has dismissed the same.

10. From the above discussion it is apparent that the appellant/writ petitioner is not entitled to appointment on compassionate ground.
11. Accordingly, the Judgement and Order of the Hon'ble Single Bench deserves no intervention.

MAT 1611 of 2022 with IA No. CAN 1 of 2022 stands accordingly dismissed.

Parties shall be entitled to act on the basis of the server copy of the judgment and order placed on the official website of the Court.

Urgent Xerox certified photo copies of this judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

I Agree.

(Subrata Talukdar, J.)

(Supratim Bhattacharya, J.)