



IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON	:	23.01.2023
ORDERS PRONOUNCED ON	:	22.12.2023

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

**W.P. No. 19760 of 2015
and M.P.No.1 of 2015**

M.Venkataraman
S/o Late N.Murugan

....Petitioner

-VS-

1.The Chairman-cum-Managing Director
Indian Bank
Corporate Office
No.254, Avvai Shanmugam Salai
Chennai – 600 014.

2.The General Manager (HRM)
Indian Bank
Corporate Office
No.254, Avvai Shanmugam Salai
Chennai – 600 014.

3.The Chief Manager (HRM)
Indian Bank
Corporate Office
No.254, Avvai Shanmugam Salai
Chennai – 600 014.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the 3rd respondent's letter dated 28.11.2014 in Co:HRM:Comp.App:2014-15 and quash the same and direct the respondents to appoint the petitioner as a



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Clerk or any other suitable post in any one of the branch on compassionate ground within the time prescribed by this Court.

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For Petitioner : Mr.M.Muthappan
For Respondents : Mr.V.Kalyanaraman
for M/s Aiyar & Dolia for R3
for RR1 & 2 – No appearance

ORDER

Aggrieved against the order of the 3rd respondent dated 28.11.2014 in Co:HRM:Comp.App:2014-15, the petitioner has filed the present Writ Petition, whereby the petitioner's claim to consider him under the Compassionate appointment got rejected.

2.It is the case of the petitioner that his father – Late N.Murugan worked as Senior Manager in the Manali Branch and due to harness died on 02.01.1997. Immediately, petitioner's mother submitted her representation on 12.03.1997, seeking to appoint the petitioner herein, under Compassionate Appointment. At the time of death of the said Murugan, petitioner was a minor and after attaining majority, petitioner's mother again submitted her representation on 21.07.2001, requesting the respondent Bank to give appointment, to the petitioner under Compassionate Appointment. In response to the same, the respondent Bank has sent a communication on 09.07.2004,



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directing the petitioner to apply afresh, on the basis of the scheme introduced vide Bank's circular dated 27.04.2004 and in the Circular, it is made clear that if in case, an employee dies on account of injury sustained while performing official duty, including death caused while on duty due to decoity / robbery / terrorist attack, the family of the deceased employee will be given an option to choose either compassionate employment to eligible dependent family member or to receive a cash compensation.

3.In all the cases, an employee dying in harness, then the deceased employee's dependants are eligible, either for compassionate appointment or to receive a cash compensation. Accordingly, the respondent Bank has sent a letter dated 09.07.2004 directing the petitioner's mother to submit an application either choosing for compassionate appointment or for a cash compensation.

4.In response, petitioner's mother vide letter dated 05.08.2004 requested the respondent Bank, to consider the claim of Compassionate Appointment instead of Cash Compensation. However, the respondent sent another letter dated 16.11.2004 directing the petitioner's mother to apply for the benefit of



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cash compensation in the prescribed format, in lieu of appointment on or before 30.11.2004, and further directed that if no response before the said date, the petitioner will not be eligible for any benefit under the scheme. Though the petitioner's mother repeatedly requested for consideration under Compassionate appointment, due to the respondent Bank's letter dated 16.11.2004 stating that they will not be eligible for any benefit under the scheme, except cash compensation, with no other option by letter dated 29.11.2004 submitted her willingness to receive cash compensation and she sent the required application along with the letter.

5.In the meantime, the respondent Bank had introduced a scheme for payment of Ex-gratia to the family of employees dying in harness/employees prematurely retired on medical grounds, in lieu of appointment on compassionate grounds vide its letter dated 30.08.2005 and the time limit prescribed for the above mentioned scheme is that, six months from the date of death of the employee. Thereafter, the respondent Bank, in reply to the petitioner's mother's letter dated 29.11.2004, requesting for compassionate appointment as well as cash compensation, sent a letter dated 08.09.2005, informing about the implementation of new scheme for Ex-gratia payment, in



lieu of appointment on compassionate grounds and also directed to apply for the above said scheme afresh in the prescribed format.

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6. Again, the petitioner along with his mother sent a representation dated 23.09.2013 to the respondent Bank, for consideration of the petitioner under Compassionate Appointment, for which, the respondent Bank, vide letter dated 23.10.2013 informed that there is no scope for compassionate appointment and further, the petitioner and his mother not chosen to apply for the Ex-gratia, before the stipulated time, the respondent Bank is not in a position to consider their requests.

7. The respondent Bank, again came with a new scheme for compassionate appointment in Public Sector Banks vide proceedings dated 21.11.2014 and the same was came into effect from 05.08.2014. Thus, on the last representation sent by the petitioner on 20.11.2014 got rejected by the respondent Bank, vide the order impugned in this Writ Petition, stating that the scheme of compassionate appointment in Public Sector Banks will be effective from 05.08.2014 only and applicable to dependant family member of permanent employee dying harness/retired on medical grounds on or after



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05.08.2014. Aggrieved against the above said order, the petitioner is before this Court.

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8.The learned counsel for the petitioner would submit that the petitioner's father died on 02.01.1997 and once the petitioner attained majority, on behalf of the petitioner, his mother applied for appointment under Compassionate ground. At the relevant point of time, the Circular No.56/79 dated 04.04.1979 was existing. However, the respondent Bank, without considering the request made by the petitioner as well as his mother, prolonged the matter upto the year 2014 and finally now, they are coming with the claim, that the compassionate appointment in Public Sector Banks will be effective only from 05.08.2014 and applicable to dependant family member of permanent employee dying harness/retired on medical grounds on or after 05.08.2014.

9.The learned counsel for the petitioner would further submit that in all claims of appointment on compassionate grounds, there should not be any delay in appointment. In this case, the petitioner along with his mother were dragged by the respondent Bank, in order to get the appointment. The purpose



of providing appointment on compassionate ground is to mitigate the hardship due to death of the bread-earner in the family. Such appointments should, therefore, be provided immediately to redeem the family in distress. The fact that the petitioner was a minor at the time of death of his father is no ground, unless the scheme itself envisage specifically otherwise, to state that as and when such minor becomes a major he can be appointed without any time consciousness or limit.

10.The learned counsel for the respondents would submit that on the day when the petitioner's mother submitted her application seeking appointment on compassionate grounds, the Bank was facing severe financial crisis and in that behalf, the Reserve Bank of India imposed a general ban on recruitment. It is further submitted that due to financial constraints faced by the Bank, it could not undertake any fresh recruitment or offer any compassionate appointments during that period. On account of the same, the application submitted by the petitioner's mother could not be considered.

11.On the other hand, it is an exception to the general rule that recruitment to public services should be on the basis of merit, by an open



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invitation providing equal opportunity to all eligible persons to participate in the selection process. The dependants of employees, who die in harness, do not have any special claim or vested right to employment, except by way of the concession that may be extended by the employer under the Rules or by a separate scheme, to enable the family of the deceased to get over the sudden financial crisis.

12.The claim for compassionate appointment is therefore traceable only to the scheme framed by the employer for such scheme. An appointment under the scheme can be made only if the scheme is in force and not after it is abolished/withdrawn. Therefore, when a scheme is abolished, any pending application seeking appointment under the scheme will also cease to exist, unless saved. The mere fact that an application was made when the scheme was in force, will not by itself create a right in favour of the petitioner. Therefore, the petitioner cannot seek for compassionate grounds on the basis of the Circular dated 04.04.1979. In support of his contention, the learned counsel for the respondents would rely on the decision of the Hon'ble Apex Court in the case of *N.C.Santhosh Vs. State Bank of Karnataka and Others* reported in *AIR 2020 SC 1401*, wherein it has held that the norms, prevailing



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on the date of consideration of the application, should be the basis for consideration of claim for compassionate appointment. Thus, the petitioner is not entitled to avail the benefit of compassionate appointment neither under the previous scheme dated 04.04.1979 nor under the present scheme dated 21.11.2014. Therefore, he prayed to dismiss the Writ Petition.

13.Heard the learned counsel for the petitioner and the learned counsel appearing for the respondents and also perused the materials available on record.

14.Considering the facts and circumstances of the case, the purpose of providing employment to a dependant of a Government servant dying in harness to mitigate the hardship caused to the family of the employee who died while in service. To alleviate the distress of the family, appointment on compassionate grounds shall be provided as per the Rules. The reason for making compassionate appointment, which is exceptional, is to provide immediate financial assistance to the family of a government servant who dies in harness, when there is no other earning member in the family.



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15. It was a deserving case where, the respondents should have shown some compassion and consider the petitioner's application for compassionate appointment. Unfortunately, the respondents did not seem to have shown any compassion at all and mercilessly prolonged the matter from the year 1997 and finally rejected the petitioner's application on a hyper technical ground.

16. In view of above, this Court deems fit that the petitioner's case deserves for compassionate appointment in as much as the petitioner's mother had diligently made a claim in the year 1997 and also immediately after attaining the age of majority by her son, in the year 2001. Therefore, under such circumstances, rejection of the petitioner's application on the ground of implementation of new scheme by the respondent Bank for compassionate appointment is not justified.

17. Therefore, this Court set aside the impugned order dated 28.11.2014 and the respondents are directed to consider the petitioner's application on merits and to provide necessary appointment under the Compassionate Appointment in accordance with law. The said exercise shall be done within a period of twelve(12) weeks from the date of receipt of a copy of this order.



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18. Accordingly, this writ petition is allowed. No costs. Consequently connected miscellaneous petition is closed.

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Index: Yes/No
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Speaking Order: Yes/No
Neutral citation: Yes/No

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Pre-Delivery order in
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