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WP.No.33281/2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.09.2023

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

WP.No.33281/2019

C.Senthurnathan

... Petitioner

Versus

1.The Board of Directors

Indian Overseas Bank

Central Office, No.763

Anna Salai, Chennai 600 002.

2.The Managing Director and Chief Executive

Officer, Indian Overseas Bank, Central

Office, No.763, Anna Salai

Chennai 600 002.

3.The Chief Manager

Personnel Administration Department

Indian Overseas Bank, Central Office

No.763, Anna Salai, Chennai 600 002.

... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records relating to the order of the 3rd respondent issued in PAD/178/CL/123/2016-17 dated 29.09.2016, Personnel Administration



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Department, Indian Overseas Bank, Central Office, 763, Anna Salai, Chennai 600 002, and quash the same and consequently, direct the 1st and 2nd respondents herein to consider the application dated 25.02.2015 seeking appointment on compassionate ground to the petitioner in terms of Clause 3 read with Clause 10[c] of the Scheme for Appointment on Compassionate Grounds in Public Sector Banks.

For Petitioner : Mr.K.Thennan
For Respondents : Mr.R.Marimuthu

ORDER

- (1) The writ petition has been filed in the nature of a certiorarified mandamus seeking records relating to an order of the 3rd respondent, Chief Manager, Personnel Administration Department, Indian Overseas Bank, Chennai, dated 29.09.2016 and to quash the same and to direct the respondents 1 and 2 to consider the application dated 25.02.2015 seeking appointment on compassionate grounds to the petitioner in accordance with Clause 3 read with Clause 10[c] of the Scheme for Appointment on Compassionate Grounds in Public Sector Banks.



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- (2) In the affidavit filed in support of the writ petition, it had been stated that the mother of the petitioner, Tmt.C.S.Manasa, was working as Assistant Manager [Scale 11] of CBO in the respondent Bank and died while service on 07.07.2014 due to cardiac problem. She left behind as her legal heirs among others also the petitioner herein. The sister and the other brother of the petitioner were however employed. The petitioner had passed his Bachelor of Computer Application, M.B.A and had also obtained P.G.Diploma in Fire and Safety Engineering and also a Certificate Course in Hi-Tech Training Institute of Technology and Nebosh International General Certificate.
- (3) The petitioner sought compassionate appointment and had given an application on 16.03.2015 within a period of three years. The same was rejected on the ground that the policy to grant compassionate appointment had been withdrawn and had been subsequently re-introduced only on 05.08.2014. It had been withdrawn on 01.04.2004. It had therefore been stated that on the date of death of the mother of the petitioner/07.07.2014, the policy to grant compassionate employment was not in force. The Impugned Order



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had been signed by the Chief Manager, Personnel and Administration Department and was dated 29.09.2016. The only reason given was that the scheme for appointment under compassionate grounds was not in vogue at the time of death of the petitioner's mother.

- (4) It is contended by the learned counsel for the respondents to an argument put forth on behalf of the petitioner that the signatory to the Impugned Order was not competent, that the order now sought to be interfered with by this Court was only a communication of an earlier decision taken by the Chief Manager and countersigned by the Senior Manager on 29.09.2016. It is also contended by the learned counsel for the respondents that the General Manager had also countersigned the same by putting his initials.
- (5) There was also a scheme of the respondents that ex-gratia amount could also be paid in lieu of appointment on compassionate grounds. It is contended on behalf of the respondents that Ex-gratia cannot be paid since according to them, the monthly income of the family from all sources was not less than 60% of the last drawn salary [Net of taxes] of the employee. But, however, that reason has not been given



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in the Impugned Order . The learned counsel for the petitioner however placed reliance on Clause 10[c] of the Scheme under which compassionate appointments are granted, which is called 'the Scheme for Appointment on Compassionate Grounds / Payment of Ex-gratia Lump sum amount in lieu of Compassionate Appointment.

- (6) The respondents have turned back to that particular scheme to state that family members of the petitioner are not entitled for receipt of Ex-gratia amount. With respect to denial of appointment on communication ground, they claim that the said Scheme was not in force at the time when the mother of the petitioner herein died. But, a perusal of the aforementioned Clause 10[c] itself shows that the applicants may also be granted personal hearing by the Committee for better appreciation of the facts of the case. There are no records to show that the respondents ever made any effort to contact the petitioner or any of the members of the petitioner's family to actually determine what was the net income of the family and determine whether it was less than 60% of the last drawn pay of the mother of the petitioner or not. No efforts were taken to find out whether if it is



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so, compassionate appointment could be granted. The policy is that the family member of any employee who dies while in service, should be compensated in any one manner, either by grant of Ex-gratia compensation or by granting an employment.

- (7) Here the respondents have within themselves sat around and taken a decision that the petitioner is not entitled for either one of the two reliefs. Before they had taken such a decision, they should have granted an opportunity of personal hearing to the petitioner herein.
- (8) Relevant Clause, namely, Clause 10[c] is extracted below:-

"10[c]:-An application for appointment on compassionate ground should be considered by the Committee of Officers consisting of three officers; GM [PAD] and two members in the rank of Deputy General Manager/Assistant General Manager. The Committee may meet during the Second week of every month to consider cases received during the previous month. The applicant may also be granted personal hearing by the Committee, if necessary, for better appreciation of facts of the case. The recommendation of the Committee should be placed before the Competent Authority for a decision. If the competent Authority



disagrees with the Committee's recommendation, the case may be referred to the higher authority for a decision."

- (9) It is clear that an opportunity of personal hearing should atleast have been given, to determine the net income of the family. That is a fact which the respondents cannot assume and presume. It will have to be determined only by examining the records produced by the petitioner herein. It cannot also be determined by perusing whatever the salary slips are produced on behalf of the petitioner, but actually giving an opportunity of being heard as to the deductions that are made from the salaries earned by the brother and sister of the petitioner herein. The circumstances under which the petitioner is living would also have to be examined. The educational qualifications of the petitioner are deeply appreciable and some credence should be given by the respondents to that. They have shown scant respect for their own employee and each one of them being the other's employees, the three members who have signed the Impugned Order, have shown scant respect for each one of the other. In effect, it can be safely concluded



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C.V.KARTHIKEYAN, J.,

AP

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