



W.P.(MD).No.20567 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 17.07.2023

PRONOUNCED ON : 26.07.2023

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.20567 of 2021

A.Arun Prabu

... Petitioner

Vs.

1.Canara Bank,
Represented by its Managing Director,
Human Resources Wing,
Head Office,
112 J C Road,
Bangalore – 560 002.

2.The General Manager,
Canara Bank,
Human Resources Wing,
Head Office,
112 J C Road,
Bangalore – 560 002.

3.The Assistant General Manager,
Human Resources Section,
Circle Office,
East Veli Street,
Madurai – 625 001.



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4. The Branch Manager,
Canara Bank,
Kombai,
Theni District.

.... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Ref:MDICHRM 58502 2021, dated 18.10.2021 on the file of the third respondent and quash the same as illegal and consequently direct the third respondent to appoint the petitioner under the scheme of compassionate appointment in suitable post within the time stipulated by this Court.

For Petitioner : Mr.K.Jeyamohan

For Respondents : Mr.Pethu Rajesh

ORDER

The present Writ Petition has been filed to quash the impugned order, dated 18.10.2021 on the file of the third respondent and consequently to direct the third respondent to appoint the petitioner under the scheme of compassionate appointment in suitable post within the time stipulated by this Court.



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2.The petitioner's father M.Asaikalai with Staff No.58502 joined the respondent Bank on 11.11.1989 as Peon. While he was in service, he passed away on 06.10.2014, leaving behind the petitioner, his wife and daughter. The petitioner's sister is married. The petitioner's mother is a patient of breast cancer, who is continuously under treatment. Due to the difficult and penurious situation of the family, the petitioner was employed in the Canara Bank, Gudalur Branch as a daily wager from 11.11.2016 to 06.11.2017. In the meanwhile, the petitioner made an application on 15.04.2015 seeking compassionate appointment in the Bank in any post in the Peon cadre, as per H.C Cir.143/2015, dated 20.03.2015. Though the petitioner was engaged as a daily wager in the Canara Bank, Gudalur Branch, his application seeking compassionate appointment was not considered. Hence, he made a reminder representation to the respondent Bank in the year 2017 to consider his pending request for compassionate appointment under the scheme available in the Bank. But to the shock and dismay of the petitioner, the respondent Bank even stopped from engaging the petitioner as a daily wager after that. On 12.01.2018, the respondent Bank rejected the application of the petitioner seeking



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compassionate appointment. Challenging the said order, the petitioner filed a Writ Petition in W.P(MD)No.10307 of 2018 and on 04.08.2021, this Court allowed the Writ Petition by quashing the impugned order passed by the third respondent, dated 12.01.2018 and directed the respondents to re-consider his application in the light of the scheme framed by the respondent Bank in Circular No.143/2015, dated 20.03.2015. While passing that order, this Court gave liberty to the petitioner to submit additional particulars as well along with the earlier application dated 15.04.2015. Pursuant to the said order, the petitioner made a written representation to the respondents on 11.08.2021. Thereafter, once again the third respondent on 18.10.2021 rejected the petitioner's request stating that the petitioner's overall family income is Rs.18,791/-. Challenging the said order, dated 18.10.2021, the present Writ Petition came to be filed.

3.The learned counsel appearing for the petitioner vehemently contended that the petitioner made an application seeking compassionate appointment well within three years from the date of death of his father by explaining the penurious situation of his family. He further submitted that the impugned order is bad and the third



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respondent Bank ought not to have rejected his application on the ground that his sister Priyanka is already married and there are no further obligations. He also assailed the impugned order for arriving at total family income from all sources as Rs.18,791/- including the pension amount which is sanctioned to his mother, who is an ailing cancer patient. He further submitted a meagre family pension of around Rs.10,000/- which is received by his mother is not sufficient even to meet her medical expenses. By some way or other, he is engaging himself in daily wage works and manages to run the family and pressed for allowing the Writ Petition.

4.Per contra, the learned counsel appearing for the respondents contended that the petitioner is not entitled for compassionate appointment from any angle for the reason that the petitioner's family was settled with the terminal benefits of the deceased to the tune of Rs.6,24,520.13/-. Moreover, as many liabilities in six loan accounts availed by the deceased M.Asaikalai was also adjusted and closed except the liabilities with respect to the two housing loans and even with respect to the said housing loans, it was agreed to continue with an EMI of Rs.2,900/- for 83 months. However,



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both the housing loan liabilities were closed by the legal heirs on 26.09.2017. As per Clause 6 of Circular No.143/2015, dated 20.03.2015, the eligibility criteria is that only the family which is indigent deserves immediate assistance for relief from financial destitution seeking compassionate appointment. He further insisted that the third respondent Bank on analysis of the application has taken into account the fact of earning by the petitioner and had considered the total income of the family as well as the criterion therein, found that the legal heirs of the deceased M.Asaikalai were not in requirement of any immediate financial assistance and no penury was existing in the family. The petitioner was already employed and he was an earning member of the family. For the past nine years, the petitioner's family has managed to deal with the situation and that itself would prove that the petitioner is not entitled to seek compassionate appointment and he prayed for dismissal of the Writ Petition.

5.Heard Mr.K.Jeyamohan, learned counsel appearing for the petitioner and Mr.Pethu Rajesh, learned counsel appearing for the respondents and anxiously perused the materials available on record.



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6.This Court in the previous Writ Petition filed by the petitioner in W.P(MD)No.10307 of 2018 has specifically passed an order directing the respondents to reconsider the petitioner's application in the light of Circular No.143/2015, dated 20.03.2015. The scheme of compassionate appointment in the respondent Bank is amended to the effect that the application for employment under the scheme from eligible dependents will normally be considered upto five years from the date of death of the employee and in this case, the application has been duly made within five years from the date of death of the employee ie., on 15.04.2015, well within one year from the date of death of the employee ie., on 06.10.2014. Clause 19 of the said scheme mandates that the official from the branch / concerned section shall meet the members of the family of the employee in question immediately after the death, advice and assist them in getting appointment on compassionate ground. The applicant shall be called in person at the very first stage and advised in person about the requirements and formalities to be completed by him. It is further mandated that an application for appointment on compassionate ground shall not be rejected merely on the ground that the family of the employee has received the benefits under the various welfare



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schemes. It further mandated that while considering a request for appointment on compassionate grounds, a balanced and objective assessment of the financial condition of the family has to be made taking into account its assets and liabilities and all other relevant factors such as the presence of an earning member, size of the family etc.

7.However, I am of the considered view that the third respondent Bank, without considering their own scheme of compassionate appointment, has mechanically rejected the petitioner's application seeking compassionate appointment twice that too on flimsy criteria. The impugned order, dated 18.10.2021 would reveal that the rejection order came to be passed observing the fact that the petitioner's sister Priyanka is already married and hence there are no further family obligations. Moreover, the total family income from all sources has been arrived at Rs.18,791/- without any proper calculation sheet enclosed in the impugned order. Without recording the fact that the third respondent Bank even ousted the petitioner out of the daily wage employment in which he was engaged in Canara Bank, Gudalur Branch as early as from 11.11.2016 to 06.11.2017 and without



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mentioning that he remains unemployed after that and without taking into account that the meagre family pension which is being received by his mother will not be sufficient even for her medical expenses, the third respondent Bank has mechanically rejected the petitioner's application seeking compassionate appointment. In view of these disparities, this Court is inclined to quash the impugned order, dated 18.10.2021 passed by the third respondent.

8. Accordingly, the impugned order, dated 18.10.2021 passed by the third respondent is quashed and further, this Court directs the third respondent Bank to appoint the petitioner on compassionate ground in any suitable post within a period of twelve weeks from the date of receipt of a copy of this order.

9. With the abovesaid directions, this Writ Petition is allowed. There shall be no order as to costs.

26.07.2023

NCC : Yes
Index : Yes
Internet : Yes
ps

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To

- 1.Canara Bank,
Represented by its Managing Director,
Human Resources Wing,
Head Office,
112 J C Road,
Bangalore – 560 002.
- 2.The General Manager,
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L.VICTORIA GOWRI, J.

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Pre-Delivery Order made in
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