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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-29474-2022

Date of Decision:04.08.2023

RAJ KUMARI

..... Petitioner

Versus

PUNJAB NATIONAL BANK AND ANR

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Amit Mehta, Advocate
for the petitioner.

Mr. Saurav Verma, Advocate with
Ms. Preeti Grover, Advocate and
Mr. Akash Soni, Advocate
for the respondents.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Article 226/227 of the Constitution of India is seeking direction to respondent-Bank to consider case of the petitioner for compassionate appointment.

2. Learned counsel for the petitioner *inter alia* contends that husband of the petitioner was working with respondent-Bank and he passed away on 05.10.2018. The petitioner applied for appointment on compassionate ground in terms of policy of the Bank. The Bank did not pay heed to her request and she sent Legal Notice dated 30.09.2022 and Bank through Advocate vide letter dated 30.10.2022 informed her that there is dispute between two wives of the deceased employee, thus, her case cannot be considered. It was further intimated that she is required to bring no objection certificate from other legal heirs. The dispute between

the petitioner and first wife of the deceased stands settled by Civil Court and son of first wife has never filed any application seeking compassionate appointment, thus, there is no other claimant.

3. Learned counsel for the respondent-Bank submits that petitioner is not eligible at all, thus, there is no question to consider application of the petitioner. The question of consideration of application of the petitioner would arise, if the petitioner falls within eligibility criteria. The Bank in its policy dated 25.09.2014 has clarified that benefit of compassionate appointment is available to a family member of an employee who had died prior to completing age of 55 years whereas husband of the petitioner at the time of death was 59 years and 10 months old, thus, petitioner is not eligible for compassionate appointment.

Learned counsel for the respondents in support of his contention relies upon judgment of a Coordinate Bench of this Court in ***CWP No.8687 of 2018*** decided on ***02.03.2020*** titled as ***Subhash Chand Vs. Punjab National Bank and others.***

4. I have heard the arguments of both sides and with the able assistance of learned counsel have perused the record.

5. The respondents is relying upon paragraph 4 of the policy which reads as:

“ COVERAGE

4.1 To a dependent family member of a permanent employee of the Bank who

a) dies while in service (including death by suicide)

b) is retired on medical grounds due to incapacitation before reaching the age of 55 years. (Incapacitation is to be certified by a duly appointed Medical Board in a Government Medical College/Government District Head Quarter Hospitals/Panel of Doctors nominated by the Bank for the

purpose).

4.2 For the purpose of the Scheme, “employee” would mean and include only a confirmed regular employee who was serving full time or part-time on scale wages, at the time of death/retirement on medical grounds, before reaching age of 55 years and does not include any one engaged on contract/temporary/casual or any person who is paid on commission basis.”

6. From the perusal of aforesaid policy, it is quite evident that there are two clauses i.e. Clause (a) and Clause (b) of paragraph 4.1. Clause (a) deals with death of an employee in service whereas Clause (b) deals with retirement on account of medical grounds. There is no prescription of age in Clause (a) whereas it is Clause (b) which contemplates age factor. Clause (b) specifically postulates that age of the employee at the time of retirement on medical ground should be less than 55 years.

7. Learned counsel for the respondent-Bank has attempted to argue that requirement of 55 years age is applicable to death as well as retirement on medical ground. The contention of the respondent-Bank cannot be countenanced because if there was condition of age of 55 years in every case, there was no need of carving out two clauses i.e. Clause (a) & Clause (b). In alternative, the Bank must have provided either in the Clause (a) itself the condition of age or below both the clauses, the condition of age must have been provided.

This Court from the perusal of paragraph 4 is of the considered opinion that condition of 55 years age is applicable to Clause (b) i.e. retirement on medical ground and the condition of 55 years age is not applicable to case of death while in service.

8. Learned counsel has further attempted to support his contention with paragraph 4.2 of the policy. Paragraph 4.2 is basically

clarification qua expression “employee”. Paragraphs 4.2 cannot be read in such a manner which would narrow or alter scope of paragraph 4.1. If in view of paragraph 4.2, condition of age is applicable to clause (a) and (b) of paragraph 4.1, there was no necessity to provide for age condition in clause (b).

From the perusal of judgment cited by the learned counsel for the respondent, it seems that parties have not brought difference between clause (a) and (b) in the knowledge of the Bench.

There is no condition of age qua death and in the case in hand, employee had died during service, thus, petitioner is not precluded to claim compassionate appointment.

9. In view of above facts and findings, the present petition deserves to be allowed and accordingly allowed. The respondent-Bank is directed to consider case of the petitioner and grant compassionate appointment, if she is eligible as per other terms and conditions of the policy. The respondent-Bank shall consider and decide application of the petitioner within 6 weeks from today.

(JAGMOHAN BANSAL)
JUDGE

04.08.2023
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>