



\$~58

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Decided on: 23rd May, 2023*

+ **W.P.(C) 17180/2005**

RAM MURTI DEVI ALIAS MURTI DEV Petitioner

Through: Mr. Ramniwas Bansal, Adv.
(M:9810430799,
Email:rnbansal654@gmail.
com)
Mr. Hitendra Kr. Nahata, Adv.
(M:9910290400).

versus

PUNJAB NATIONAL BANK & ORS. Respondents

Through: Mr. Jagdeep Kishore with Ms.
Rekha Gupta, Advs. for Punjab
National Bank,
(M:9810056313,
Email:jagskishore@gmail.com)

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA
[Physical Hearing/ Hybrid Hearing]

MINI PUSHKARNA, J. (ORAL):

1. The present writ petition has been filed seeking indulgence of this Court under Article 226 of the Constitution of India for issuing directions to the respondents to provide employment to petitioner No.2 on compassionate grounds upon demise of husband of petitioner No.1 and father of petitioner No.2 on 14.01.2004.
2. Learned counsel for the respondent submits that the scheme for



granting employment on compassionate grounds was withdrawn by the respondent bank and another scheme in view thereof, known as the scheme of payment of ex-gratia (lumpsum) amount had been approved by the Board of Directors of the respondent bank on 29.10.2004.

3. On the other hand learned counsel appearing for the petitioner submits that he had applied for compassionate appointment of her son, who is now 38 years of age. Learned counsel appearing for the petitioner further submits that compassionate appointment was again introduced in the year 2014. Thus, he submits that the son of the petitioner would be entitled for compassionate appointment.

4. Per Contra, learned counsel appearing for the respondent submits that the scheme which was introduced in the year 2014 for compassionate appointment was only with respect to deceased employees who died after the cut off date, i.e., 05.08.2014.

5. Thus, it is submitted that the subsequent scheme of compassionate appointment is not applicable to the petitioner.

6. Learned counsel appearing for the respondent bank submits that though a letter dated 24.09.2005 was issued to the petitioner for the purposes of payment of ex-gratia (lumpsum) amount in lieu of appointment on compassionate grounds, however, the petitioner never applied for the same.

7. I have heard learned counsels for the parties and have perused the record. With the consent of the parties, the matter is taken up for final disposal.

8. By Circular dated 07.01.2005, the respondent bank had



introduced a scheme for payment of ex-gratia, (lumpsum) amount in lieu of appointment on compassionate grounds. The said scheme categorically states that the earlier scheme for employment on compassionate grounds to the dependents of the employees who died while in service of the bank, has been substituted by the new scheme for payment of ex-gratia amount as lumpsum amount in lieu of the appointment on compassionate grounds.

9. The documents on record and the submissions made before this Court, clearly manifest that the petitioner's family was released various amounts towards provident fund and gratuity and other amounts. However, since the petitioner never applied for payment under the said scheme for payment of ex-gratia amount, the said amount was never released to the petitioner.

10. As far as the prayer of the petitioner for compassionate appointment is concerned, the same cannot be granted at this stage, especially, in view of the fact that the husband of the petitioner expired way back in the year 2004. Even otherwise, the scheme of compassionate appointment was withdrawn by the respondent bank in the year 2005, which was substituted by another scheme for payment of ex-gratia payment.

11. As regards compassionate appointment, it is to be noted that compassionate appointment is given to enable the family of the deceased employee to tide over the sudden crisis. However, there is no vested right with any person for any compassionate appointment, except in accordance with the scheme that may be prevalent in an organization at the relevant time. Since in the present case the husband



of the petitioner expired in the year 2004, after lapse of more than 19 years, no direction for making any compassionate appointment can be made.

12. Summarising the principle on compassionate appointment, Supreme Court in the case of *State of Uttar Pradesh v. Premlata*¹, has held as under:

“8. While considering the issue involved in the present appeal, the law laid down by this Court on compassionate ground on the death of the deceased employee are required to be referred to and considered. In the recent decision, this Court in State of Karnataka v. V. Somyashree [State of Karnataka v. V. Somyashree, (2021) 12 SCC 20 : 2021 SCC OnLine SC 704] , had occasion to consider the principle governing the grant of appointment on compassionate ground. After referring to the decision of this Court in N.C. Santhosh v. State of Karnataka [N.C. Santhosh v. State of Karnataka, (2020) 7 SCC 617 : (2020) 2 SCC (L&S) 861] , this Court has summarised the principle governing the grant of appointment on compassionate ground as under : (V. Somyashree case [State of Karnataka v. V. Somyashree, (2021) 12 SCC 20 : 2021 SCC OnLine SC 704] , SCC para 10)

“10.1. That the compassionate appointment is an exception to the general rule.

10.2. That no aspirant has a right to compassionate appointment.

10.3. The appointment to any public post in the service of the State has to be made on the basis of the principle in accordance with Articles 14 and 16 of the Constitution of India.

10.4. Appointment on compassionate ground can be made only on fulfilling the norms laid down by the State's

¹ (2022) 1 SCC 30



policy and/or satisfaction of the eligibility criteria as per the policy.

10.5. The norms prevailing on the date of the consideration of the application should be the basis for consideration of claim for compassionate appointment.”

9. As per the law laid down by this Court in a catena of decisions on the appointment on compassionate ground, for all the government vacancies equal opportunity should be provided to all aspirants as mandated under Articles 14 and 16 of the Constitution. However, appointment on compassionate ground offered to a dependant of a deceased employee is an exception to the said norms. The compassionate ground is a concession and not a right.”

13. Similarly, in the case of ***Fertilizers and Chemicals Travancore Ltd. and Others vs. Anusree K.B.***², Hon’ble Supreme Court has held as under:

17. In the case of State of Himachal Pradesh v. Shashi Kumar reported in (2019) 3 SCC 653, this Court had an occasion to consider the object and purpose of appointment on compassionate ground and considered the decision of this Court in the case of Govind Prakash Verma v. LIC, reported in (2005) 10 SCC 289, in paras 21 and 26, it is observed and held as under:—

“21. The decision in Govind Prakash Verma [Govind Prakash Verma v. LIC, (2005) 10 SCC 289, has been considered subsequently in several decisions. But, before we advert to those decisions, it is necessary to note that the nature of compassionate appointment had been considered by this Court in Umesh Kumar Nagpal v. State of Haryana [Umesh Kumar Nagpal v. State of Haryana, (1994) 4 SCC 138]. The principles which have been laid down in Umesh Kumar Nagpal [Umesh Kumar

² 2022 SCC OnLine SC 1331



Nagpal v. State of Haryana, (1994) 4 SCC 138] have been subsequently followed in a consistent line of precedents in this Court. These principles are encapsulated in the following extract : (Umesh Kumar Nagpal case [Umesh Kumar Nagpal v. State of Haryana, (1994) 4 SCC 138], SCC pp. 139-40, para 2)

“2. ... As a rule, appointments in the public services should be made strictly on the basis of open invitation of applications and merit. No other mode of appointment nor any other consideration is permissible. Neither the Governments nor the public authorities are at liberty to follow any other procedure or relax the qualifications laid down by the rules for the post. However, to this general rule which is to be followed strictly in every case, there are some exceptions carved out in the interests of justice and to meet certain contingencies. One such exception is in favour of the dependants of an employee dying in harness and leaving his family in penury and without any means of livelihood. In such cases, out of pure humanitarian consideration taking into consideration the fact that unless some source of livelihood is provided, the family would not be able to make both ends meet, a provision is made in the rules to provide gainful employment to one of the dependants of the deceased who may be eligible for such employment. The whole object of granting compassionate employment is thus to enable the family to tide over the sudden crisis. The object is not to give a member of such family a post much less a post for post held by the deceased. What is further, mere death of an employee in harness does not entitle his family to such source of livelihood. The Government or the public authority concerned has to examine the financial condition of the family of the deceased, and it is only if it is satisfied, that but for the provision of employment, the family will not be able to meet the crisis that a job is to be offered to the eligible member of the family. The posts in



Classes III and IV are the lowest posts in non-manual and manual categories and hence they alone can be offered on compassionate grounds, the object being to relieve the family, of the financial destitution and to help it get over the emergency. The provision of employment in such lowest posts by making an exception to the rule is justifiable and valid since it is not discriminatory. The favourable treatment given to such dependant of the deceased employee in such posts has a rational nexus with the object sought to be achieved viz. relief against destitution. No other posts are expected or required to be given by the public authorities for the purpose. It must be remembered in this connection that as against the destitute family of the deceased there are millions of other families which are equally, if not more destitute. The exception to the rule made in favour of the family of the deceased employee is in consideration of the services rendered by him and the legitimate expectations, and the change in the status and affairs, of the family engendered by the erstwhile employment which are suddenly upturned.”

26. The judgment of a Bench of two Judges in Mumtaz Yunus Mulani v. State of Maharashtra [(2008) 11 SCC 384] has adopted the principle that appointment on compassionate grounds is not a source of recruitment, but a means to enable the family of the deceased to get over a sudden financial crisis. The financial position of the family would need to be evaluated on the basis of the provisions contained in the scheme. The decision in Govind Prakash Verma [Govind Prakash Verma v. LIC, (2005) 10 SCC 289 : 2005 SCC (L&S) 590] has been duly considered, but the Court observed that it did not appear that the earlier binding precedents of this Court have been taken note of in that case.”

18. Thus, as per the law laid down by this Court in the aforesaid decisions, compassionate appointment is an



exception to the general rule of appointment in the public services and is in favour of the dependents of a deceased dying in harness and leaving his family in penury and without any means of livelihood, and in such cases, out of pure humanitarian consideration taking into consideration the fact that unless some source of livelihood is provided, the family would not be able to make both ends meet, a provision is made in the rules to provide gainful employment to one of the dependants of the deceased who may be eligible for such employment. The whole object of granting compassionate employment is, thus, to enable the family to tide over the sudden crisis. The object is not to give such family a post much less a post held by the deceased.

19. Applying the law laid down by this Court in the aforesaid decisions to the facts of the case on hand and considering the observations made hereinabove and the object and purpose for which the appointment on compassionate ground is provided, the respondent shall not be entitled to the appointment on compassionate ground on the death of her father, who died in the year 1995. After a period of 24 years from the death of the deceased employee, the respondent shall not be entitled to the appointment on compassionate ground. If such an appointment is made now and/or after a period of 14/24 years, the same shall be against the object and purpose for which the appointment on compassionate ground is provided.”

14. Considering the aforesaid, the prayer of the petitioner for compassionate appointment is rejected.

15. As far as the scheme of the compassionate appointment introduced in the year 2014 is concerned, the petitioner herein cannot take any mileage from the same. The said scheme has been introduced much later in the year 2014 and with the cut off date with respect to employees who have expired on 05.08.2014 and thereafter. In view thereof, no order can be passed in favour of the petitioner on the basis



of the scheme of compassionate appointment introduced in the year 2014.

16. Considering the facts and circumstances of the case and considering the fact that the respondent bank had introduced a scheme for payment of ex-gratia (lumpsum) amount vide its Circular dated 24.09.2005, it is held that since the petitioner and her family has not been granted any compassionate appointment, the petitioner and her family shall be entitled for payment of the ex-gratia (lumpsum) amount in terms of the circular of the respondent bank dated 24.09.2005.

17. In view of the aforesaid, the respondent bank is directed to release the payment towards the ex-gratia (lumpsum) amount in terms of circular dated 24.09.2005. The petitioner is directed to approach the respondent bank and fulfil any formalities that may be required for the purposes of release of the ex-gratia amount in favour of the petitioner/her family in terms of the Circular dated 07.01.2005 of the respondent/Punjab National Bank.

18. Learned counsel appearing for the respondent submits that earlier the Circle Office of the Punjab National Bank was at Rohtak (Haryana). However, he submits that at present, the Circle Office has shifted to Rewari, Haryana. In view thereof, the petitioner/her family is directed to approach the Officer Incharge (Zonal Head), Punjab National Bank, Circle Office, Rewari (Haryana) forthwith. Upon the petitioner/her family members approaching the respondent bank, the respondent bank shall process the application of the petitioner and release the requisite amounts in favour of the petitioner at the earliest,



in accordance with the Circular dated 07.01.2005.

19. Even though it has been submitted on behalf of the respondent bank that the petitioner never made any application for release of the ex-gratia amount, however, considering the fact that this writ petition has been pending since the year 2005 wherein the petitioner has been claiming compassionate appointment for her son, this Court considers it expedient to grant interest on the amount of ex-gratia payment to be released to the petitioner/her family.

20. Learned counsel appearing for the respondent bank objects to the same on the ground that the petitioner never applied for release of the ex-gratia payment, despite letter dated 24.09.2005 issued by the respondent in this regard.

21. Be that as it may, this Court considers it appropriate in the facts and circumstances of the present case, to grant interest @6% per annum in favour of the petitioner on the ex-gratia amount to be released in favour of the petitioner/her family. Thus, it is directed that the amount of ex-gratia amount to be released to the petitioner/her family in terms of Circular dated 07.01.2005 will carry an amount of interest @6% per annum from the date of filing of the present writ petition, i.e., 30.08.2005 till the date of release of the payments.

22. With the aforesaid directions the present writ petition is disposed of.

MINI PUSHKARNA, J

MAY 23, 2023

sc