



W.A.(MD) No.615 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.06.2024

CORAM

JUSTICE N. SESHASAYEE

and

JUSTICE L.VICTORIA GOWRI

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K.Venkateswaran

... Appellant/Petitioner

Vs.

- 1.The General Manager,
Canara Bank,
Head Office,
Bangalore, Karnataka State.
- 2.The Deputy General Manager,
Canara Bank, Circle Office,
St. Mary's School Compound,
Madurai-1.
- 3.The Senior Branch Manager,
Canara Bank, Gnanaolivupuram,
Madurai-16.

... Respondents/
Respondents



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Prayer: Appeal filed under Clause 15 of Letters Patent against the order dated 08.03.2018 made in W.P.(MD) No.3130 of 2012.

For Appellant : Mr.R.Rajamohan

For Respondents : Mr.C.Godwin
Standing Counsel

JUDGMENT

(Judgment of the Court was delivered by N.Seshasayee, J.)

The appellant's father, Krishnan was a part-time employee of the third respondent-Bank. On 31.05.2003, he died in harness leaving behind him surviving his widow and a minor son. At the relevant point of time, the respondent-Bank had a scheme for granting employment on compassionate grounds for those employees, who either died in harness or permanently disabled while in service to tide over the financial crisis which might befall on the family of the employee owing to the condition mentioned. The mother of the petitioner (widow of the employee) made an application for compassionate appointment *vide* her application dated 06.08.2003. Even when this application was pending, the appellant herein attained majority on 02.10.2003.



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2. While so, the Scheme providing for compassionate appointment formulated by the Bank in the year 1993 was replaced by a scheme for payment of ex-gratia lumpsum amount, which came into operation *vide* circular of the Bank dated 14.02.2005. Uncertain about their right to seek compassionate appointment, both the appellant and his mother made an application for payment of ex-gratia amount in lieu of compassionate appointment *vide* their joint application dated 19.12.2005.

3. Misery stuck, the appellant went again when he lost his mother the very next year, to be precise, on 11.05.2006. Now, some two years after the demise of the appellant's mother on 13.05.2008, the Bank had rejected the appellant's prayer for payment of ex-gratia amount. This order, however, was not immediately challenged.

4. Turning to the appellant's application seeking compassionate appointment, the Bank passed an order dated 19.11.2011 rejecting the same with cryptic one line, non-speaking, order. This order rejecting the application for



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compassionate appointment came to be challenged by the writ petitioner in W.P.(MD) No.3130 of 2012. And it came to be dismissed by the learned Single Judge *vide* his order dated 08.03.2018.

5. The line of reasoning of the learned Single Judge essentially is that no Scheme of compassionate appointment creates any vested right, nor it is a concession, but it is only intended to meet certain contingency. This order of the learned Single Judge is under challenge in this appeal.

6. Heard Mr.R.Rajamohan, learned counsel for the appellant and Mr.C.Godwin, learned Standing Counsel for the respondents.

7. The learned counsel for the appellant would submit that when the appellant made his application for compassionate appointment, the old Scheme (of year 1993) was in force and the Bank ought to have considered the writ petitioner's case for compassionate appointment immediately. If compassionate appointment is to be construed as an insurance against destitution of the family of the deceased employee, then the Bank cannot



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squat on such application for eight years. But the Bank did exactly that. The writ petitioner cannot be faulted for the inaction of the Bank. And even in the order under challenge, before the learned Single Judge, the Bank has not assigned any specific reason as to why it rejected the appellant's claim for compassionate appointment. He added, at least the Bank should have granted ex-gratia sum in terms of its 2005 Scheme.

8. Per contra, learned Standing Counsel for the respondents submitted that the appellant has not challenged the order rejecting his application for payment of ex-gratia sum and added that it was rejected because the family possesses a house and his mother was receiving family pension. Turning to the order rejecting the appellant's application for compassionate appointment, the learned Standing Counsel submitted that the 1993 Scheme for compassionate appointment makes a candid statement that it was intended to help the family of the employee to tide over the sudden stoppage of income to the family owing to the demise or permanent disability of the employee. Since these conditions are not satisfied, the appellant was denied compassionate appointment.



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9. This Court considered the rival submissions carefully. This Court may have to underscore that the moment the appellant filed his application for ex-gratia sum in lieu of compassionate appointment in terms of the scheme introduced by the Bank in 2005, he for all practical purposes, had given up his right under the old Scheme. In fitness of things, he ought to have challenged the order denying him the ex-gratia sum.

10. This Court perused the 2005 Scheme for payment of ex-gratia amount in lieu of compassionate appointment and it nowhere stipulates the eligibility for grant of ex-gratia amount to the family. All it stipulates is that it is available to the family members of the employee those who died in harness or those who permanently disabled including those who opt for premature retirement due to certain physical incapacitation. Therefore, to hold that the appellant is not entitled to ex-gratia sum because he possessed house, does not *stricto sensu* fall within the terms of the 2005 Scheme.

11. It is true the appellant has not challenged the order denying him the ex-gratia sum, but then is it not appropriate for the Bank to treat the family of its



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former employee with dignity? It is not just about the legality of the action that matters, but also about the morality of the decision taken. The Management of the Bank should have found ways and means to help the family of its former unfortunate employee with compassion, which this Court finds is seemingly missing. When the scheme does not provide any specific conditions to the family of the deceased employee to seek ex-gratia sum, it is not given to the Bank to introduce it.

12. Even as this Court now concurs with the final decision of the learned Single Judge, it directs the Bank to pay the ex-gratia sum to the appellant in terms of the Scheme introduced in the year 2005. That the appellant may not be familiar with the legal niceties, but this Court cannot ignore the plight of the appellant. Strength of law does not lie in the technicalities of the language of the law, but in using it to wipe the tear from the eyes that cries for justice.

13. The appellant is now required to make a fresh application for payment of ex-gratia amount within a period of four weeks from the date on which a



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copy of this judgment is issued and the Bank is directed to consider the same and pass orders within a period of twelve weeks from the date on which the application is submitted, in the light of what is hereinabove stated uninfluenced by its earlier decision dated 30.05.2008 and basis strictly on the construction of the 2005 Scheme. It is underscored that the Bank will not introduce any terms which are not there in the scheme as formulated in 2005 to deny this appellant his right to receive ex-gratia sum.

14. This Writ Appeal is accordingly disposed of. No costs.

(N.S.S., J.) (L.V.G., J.)
24.06.2024

NCC : Yes/No
Index : Yes/No
Internet : Yes

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