

2024:PHHC:070156-DB



Neutral Citation No.

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(103)

LPA-1231-2024 (O&M)

Decided on : 17.05.2024

Punjab National Bank & others

.....Appellant(s)

Versus

Rekha Sharma

.....Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA,
ACTING CHIEF JUSTICE
HON'BLE MS.JUSTICE LAPITA BANERJI**

Present: Mr.Saurav Verma, Advocate
Ms.Preeti Grover, Advocate, for the appellant(s).

G.S. Sandhawalia, Acting Chief Justice (Oral)

CM-2963-LPA-2024

1. Application for condoning the delay of 31 days in filing the appeal is condoned, in view of the averments made in the application duly supported by affidavit of the officials. Delay of 31 days in filing the present appeal is hereby condoned.

2. CM stands disposed of.

LPA-1231-2024 (O&M)

3. Consideration in the present appeal is to the judgment dated 14.02.2024 passed by the Learned Single Judge in CWP-28347-2017.

4. The writ petition filed by the widow of the employee who was working as Single Window Operator with the appellant-Bank, seeking the benefit of compassionate appointment had been rejected. The reason which weighed for passing of the impugned order dated 16.11.2016 (Annexure P-7) which was subject matter of challenge before the Learned Single Judge was that terminal dues to the extent of Rs.1.46 lacs had been settled and an amount of Rs.45.56 lacs had been received from the LIC and the family is also in receipt of Army pension of Rs.17,539/- per month and they had their own house to live in.

5. The Learned Single Judge relied upon the judgment of the Apex Court in **Canara Bank & another Vs. M.Mahesh Kumar, (2015) 7 SCC 412** and the judgment of Single Judge of this Court in **Keshav Sidhu Vs. Bank of Baroda through its Managing Director & others, 2022 SCC OnLine P&H 3367**, which had followed the view of the Apex Court, to go on to hold that Army pension which was being received by the widow should not have been taken into consideration. Resultantly, keeping in mind the basic principle that the purpose of the compassionate appointment policy is to protect the family of the deceased employee from destitution, penury and starvation and while keeping in mind the observations of the Apex Court in **Umesh Kumar Nagpal Vs. State of Haryana, (1994) 4 SCC 138**, the relief was granted. Direction was accordingly issued to reconsider the case in the light of the policy dated 25.09.2014 (Annexure P-2).

6. Mr.Verma has sought to convince us that it is not a case where a finding could be recorded that the family was indigent and placed reliance upon the judgment of the Apex Court in **State of Himachal Pradesh & another Vs. Shashi Kumar, 2019 (1) SCT 707**. It was argued that as per the Indian Banks Association Scheme, various factors have to be taken into consideration namely the family pension, Gratuity amount received, the employee's/ employer's contribution to Provident Fund, compensation paid by the Bank or its welfare fund, proceeds of LIC policy and income from other sources.

7. The relevant factor from the said judgment would also go on to show that there are two other considerations which are also to be kept in mind

which are employment of other family members and the size and liability of the family members. Apparently, in the present case, the deceased employee has three children, two daughters aged 23 and 20 years and one son aged 18 years and mother of the deceased who was 75 years old. Thus, we are of the considered opinion that merely because the family was in receipt of family pension on account of the earlier service rendered in the Army, it cannot be termed as a bounty and the appellant-Bank was not justified in rejecting her case. The number of family members and the age of the family members, the death having taken place at 49 years of age, when the children were not settled, all these are relevant factors which are to be taken into consideration.

8. A perusal of Clause 20(iii) of the policy dated 25.09.2014 (Annexure P-2) would also go on to show that the policy itself provided that the application for compassionate appointment will not be rejected on the ground that the family has received benefits under various welfare schemes and a balanced and objective assessment is to be taken. Said clause reads as under:

“20. GENERAL

i)xxxx

ii)xxxx

iii) An application for compassionate appointment shall, however, not be rejected merely on the ground that the family of the employee has received the benefits under the various welfare schemes. While considering a request for appointment on compassionate ground a balanced and objective assessment of the financial condition of the family shall be made taking into account its assets and liabilities (including the benefits received under the various welfare schemes mentioned above) and all other relevant factors such as the presence of an earning member, size of the family etc.”

9. Thus, the findings which are recorded by the Learned Single Judge do not suffer from any infirmity which would warrant interference by this Court, as apparently, the scheme is being frustrated since the deceased died in the year 2015 and though the order was passed on 26.10.2016 and challenged in 2017. The Learned Single Judge has also painfully noted that decision making process had taken a long time before this Court.

10. In view of the above discussion, the present appeal is dismissed in limine. All pending application(s) also stand disposed of.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

17.05.2024
Sailesh

(LAPITA BANERJI)
JUDGE

Whether speaking/reasoned :	Yes
Whether Reportable :	No