

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

114

CWP-13571-2022 (O&M)
Date of Decision: 02.02.2024

Vikas

...Petitioner

Versus

UCO Bank and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr.Rakesh Kumar, Advocate
for the petitioner.

Mr. Shekhar Verma, Advocate and
Mr. Aneeshh Chopra, Advocate
for the respondents.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of communications dated 18.02.2022 (Annexure P-13) and 18.11.2021 (Annexure P-14) whereby the respondent has rejected his claim for compassionate appointment.
2. The father of the petitioner was working with respondent-UCO Bank as Head Cashier. He passed away on 22.03.2005 in harness. He was survived by his wife and five children. The five children included three girls and two boys. At that point of time, two girls were major and remaining children were minor. The wife of the deceased was a housewife. As per her little knowledge, she vide application dated 06.06.2005 requested the respondent for appointment on compassionate ground. The respondent vide

communication dated 18.06.2005 directed her to apply in the prescribed format. In the said application, it was further advised that format may be filled in the name of Vikas i.e. son of the deceased. It is apt to mention here that Vikas at that point of time was 15 years old. The letter dated 18.06.2005 is reproduced as below :

Sub: Application for appointment on compassionate grounds submitted by Smt. Nirmala Devi w/o Late Ram (Staff).

This has reference to your letter No.91/05-06 dated 06.06.2005 vide which application for appointment on compassionate grounds as submitted by Smt. Nirmala Devi w/o Late Ram Lal has been sent to this office.

In this regard, we are enclosing prescribed formats for applying for appointment on compassionate grounds. You are advised to get the same filled in from Mr. Vikas s/o Late Ram Lal and forward the complete set to this office for our onward submission to Head Office for decision in the matter.

3. As per petitioner, pursuant to said letter, they filed two applications both dated 20.07.2006. One application was filed in the name of Vikas i.e. son of the deceased and another in the name of wife i.e. Nirmala Devi. The application was accompanied with prescribed format. The petitioner pursued the matter with respondent, however there was no response. The petitioner served legal notice dated 23.12.2021 upon the respondents which came to be answered by communication dated 18.02.2022. In the reply, it was pointed out that the petitioner has not claimed for compassionate appointment within time, thus, claim of the petitioner cannot be considered. The respondent vide communication dated

18.11.2021 further formed an opinion that *ex-gratia* amount can be paid if application is filed within 06 months from the date of death of the employee.

The application for compassionate appointment was submitted by Vikas on 22.07.2006 i.e. after the expiry of 17 months from the death of the employee.

4. Learned counsel for the petitioner submits that grievance of the petitioner, at this stage, would be redressed if respondents are directed to release *ex-gratia* amount of Rs. 7 Lakhs as provided in the policy of the respondent-bank. He further submits that petitioner is entitled to interest @ 9% per annum on the said amount.

5. Learned counsel for the respondent submits that mother of the petitioner vide application dated 06.06.2005 claimed appointment on compassionate ground. The mother of the petitioner was directed to file application in the prescribed format. The petitioner is claiming that they had filed application whereas as per record of the bank, no application in the prescribed format was received, thus, claim of the petitioner is hopelessly barred by limitation. As per policy of the bank, the petitioner was duty bound to apply for *ex-gratia* amount within 06 months from the date of death of the employee whereas the petitioner, in any case, had applied after 17 months from the date of death.

6. I have heard the arguments of learned counsel for the parties and perused the record.

7. The conceded position emerging from the record is that father of the petitioner was working with respondent-bank as Head Cashier and he passed away in harness on 22.03.2005. He was survived by an illiterate widow and five dependent children. Three children were minor and two

were major. All the children were unmarried. The mother of the petitioner vide application dated 06.06.2005 requested the respondent for appointment on compassionate ground. The respondent vide communication dated 18.06.2005 asked the mother of the petitioner to file application in the name of her son i.e. Vikas who at that point of time was minor.

8. The respondent has placed on record the policy dated 07.11.2007 which provides for payment of ex-gratia amount in lieu of appointment on compassionate grounds and appointment of dependants of deceased employees on compassionate grounds. The relevant extracts of the policy read as:

3. Short Title of the Scheme :
(A) The Scheme for grant of ex-gratia will be applicable in the following cases of employees :
1) Employee dying in harness (other than due to injury sustained while performing official duty as a result of violence, terrorism, robbery or dacoity).

X

X

X

X

X

4. Ex-gratia Payment :
i) In the cases as in para 3(A), ex-gratia amount will be paid to the family of the deceased employee if eligible and if requested for within six months from the date of the death of the employee. The family shall be in indigent or penurious circumstances.

ii) Ex-gratia may be granted to the family of the employee in the manner and subject to the ceiling specified below, if the monthly income of the family from all sources is less than 60% of the last drawn salary (net of taxes) of the deceased employee.

X

X

X

X

X

TOTAL MONTHLY INCOME OF THE FAMILY

(c) If the total monthly income of the family arrived at as above is less than 60% of the last drawn gross salary (net of taxes) of the deceased employee, ex-gratia amount as under will be payable.

i) The cadre-wise ceiling on Ex-gratia amount payable will be as follows :

Category	Maximum Amount of Ex-gratia
Officers	Rs. 8 lacs
Clerical Staff	Rs. 7 lacs
Subordinate staff	Rs. 6 lacs

9. The respondents have rejected claim of the petitioner on the ground that the petitioner never applied for ex-gratia amount and their family was always insisting for compassionate appointment. The ex-gratia payment could be made, had petitioner applied within 06 months from the date of death of the employee.

10. The preamble of the Constitution declares our country a socialist State. Compassionate appointment and *ex-gratia* payment schemes are piece of beneficial legislation and have been made in furtherance of achieving goal set out by our Constitution.

11. The object of ex-gratia payment or compassionate appointment is to protect family of the deceased employee from destitution, penury and starvation. In the object clause of the policy framed by the respondent, it has been specifically noticed that object of the appointment on compassionate ground is not to give a member of the deceased employee's family a post, much less a post for a post held by the deceased but to provide relief to the family of a deceased employee to tide over the sudden crisis brought about

by his/her premature death. The relief envisaged would provide the distressed family immediate succor and financial assistance to recover from the unexpected deprivation of the income of the sole bread-winner of the family.

12. The stand of the respondent is that the petitioner did not apply for compassionate amount within 06 months and family of the deceased employee was insisting for compassionate appointment. It is an undisputed fact that mother of the petitioner filed application seeking compassionate appointment on 06.06.2005. The respondent-bank asked mother of the petitioner to file application in the name of petitioner who at that point of time was minor. The respondent did not think it appropriate to ask mother of the petitioner to claim in alternative ex-gratia amount. The respondent is taking hyper-technical stand which ill behoves it. The respondent should strive to secure ends of justice as well as intent and purport of the scheme. The scheme is not a statute creating limitation period. The scheme is a piece of beneficial delegated legislation and its one clause cannot be read in a manner which would frustrate its purpose. The beneficial schemes must be read in a holistic and pragmatic manner. The bank was supposed to look at financial, social and educational condition of the family and not to look at mode or manner of the application. The employee was survived by an illiterate widow and five children. This Court is at pain to notice that respondent in place of behaving like a responsible employer has dragged the petitioner and his family to unwanted litigation.

13. This Court in *Laxmi Devi and another vs. Vijya Bank and another, in CWP No.19366 of 2017 decided on 07.07.2023* forming a

similar opinion directed the respondent therein to pay ex-gratia amount along with interest @6% per annum from the date of filing of writ petition. The said order has been upheld by a Division Bench of this Court in LPA No.1336 of 2023 vide order dated 25.01.2024.

14. In the wake of above discussion and findings, this Court is of the considered opinion that petitioner is entitled to *ex-gratia* amount of ₹ 7 lakhs along with interest @ 6% per annum. Accordingly, the respondent-bank is directed to release a sum of ₹ 7 lakhs along with interest @ 6% per annum from the date of filing of writ petition. The needful shall be done within three months from today. It is made clear that the entire payment shall be made to widow of the employee.

15. Disposed of in above terms.

16. Pending miscellaneous application, if any, shall also stands disposed of.

02.02.2024

anju

(JAGMOHAN BANSAL)

JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>Yes</i>