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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-8306-2018
Date of Decision: 01.02.2024

Smt. Jogindro

...Petitioner

Versus

Oriental Bank of Commerce and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Naveen Daryal, Advocate for the petitioner
Mr. Ram Niwas Lohan, 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 order dated 18.03.2016 (Annexure P-6) whereby application of the petitioner seeking compassionate appointment has been declined.
2. The husband of the petitioner was working with respondent-Oriental Bank of Commerce as Head Peon. He passed away on 25.12.2014 in harness. He was survived by his wife-petitioner and two children. The petitioner vide application dated 20.04.2015 (Annexure P-2) requested the respondent-bank to extend benefit of *ex gratia* scheme. The respondent-bank put up the matter before the higher authorities. The General Manager (HRD) vide communication dated 10.03.2016 (Annexure P-5) intimated Regional Office that petitioner is not entitled to compassionate appointment, however,

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she may be released a sum of ₹6 Lacs as *ex gratia* amount subject to furnishing of documents jotted down in the said letter. Letter dated 10.03.2016 is reproduced as below:-

“APPOINTMENT ON COMPASSIONATE APPOINTMENT GROUNDS- SH. SHIV KUMAR S/O SH. SATPAL, EX HEAD PEON, B/O G.T. KARNAL.

This has reference to the application to the application of Sh. Shiv Kumar S/o late Sh. Satpal, Ex- Head Peon. B/O G.T. Karnal for appointment in the bank on compassionate grounds. In this connection, we regret to inform that the request of the subject for appointment on compassionate grounds has been considered but not acceded to by the competent authority as per provision of the scheme.

But as per scheme for payment of Ex-gratia amount in lieu of appointment on compassionate grounds family of family of the deceased is eligible for EX Gratia Amount. You are advised to make the payment of Ex Gratia amount of Rs 6,00 000.00 (Six Lacs only) to the legal heirs of the deceased to the debit of Charges General (Estt) through B/O G.T. Karnal after obtaining the affidavit, letter of authority subject to fulfillment of the following conditions:

- 1. Ensure to confirm the authenticity of the claimant being the lawful legal heir of the deceased and he/she falls under the definition of “Family” as circulated vide our Circular No.HRD/64/35/2007/290 dated 26.09.2007. All papers/documents as required in case of settlement of claims of deceased depositor as circulated vide Recovery and Law Deptt. Circular No.HO/Recovery&Law/14/2006-07/602 dated 26.03.2007, HO/REC & Law Circular No.02/2015-16/40 dated 01.04.2015 are to be obtained from the claimants in proof of their being the legal heir of the deceased kept on record.*
- 2. Before release of payment of ex-gratia, it should be ensured that no dues/loans exist against the name of the deceased. All the outstanding dues/loans against the name of the deceased are to be recovered from the amount of ex-gratia payable.*
- 3. Receipt for payment of ex-gratia amount in lieu of appointment on compassionate grounds as per performa enclosed is obtained and kept on record.*

Further, you are requested to inform us the action taken in the matter and a copy of the receipt for payment of ex-gratia amount in lieu of appointment on compassionate grounds is sent to us for our record.”

3. The respondent-bank vide communication dated 18.03.2016 (Annexure P-6) intimated son of the petitioner that his application for compassionate appointment has been declined, however, as per scheme for payment of *ex gratia* amount in lieu of appointment on compassionate grounds, family is eligible for *ex gratia* amount of ₹ 6 Lacs. Letter dated 18.03.2016 is reproduced as below:-

“Sub: Your application for employment in Bank on compassionate grounds.

In reference to your application for appointment in the Bank on compassionate grounds we regret to inform that your request has been considered but not acceded to by the competent authority as per provisions of scheme, but as per scheme for payment of Ex-gratia amount in lieu of appointment on compassionate grounds family of the deceased (Sh. Satpal) is eligible for Ex Gratia amount of Rs.6,00,000 (Rs. Six lac only).

You are requested contact the undersigned and submit affidavit, letter of authority and other documents/papers etc. pertaining to all legal heirs of the deceased employee to enable us to release the Ex Gratia amount to legal heirs as per instructions of competent authority.”

4. Mr. Narveen Daryal, Advocate submits that grievance of the petitioner, at this stage, would be redressed if respondents are directed to release *ex gratia* amount of ₹6 Lacs as approved vide communication dated 10.03.2016 and 18.03.2016. He further submits that petitioner is entitled to interest @ 9 % per annum on the said amount.

5. Mr. Ram Niwas Lohan, Advocate submits that petitioner since 2016 is claiming compassionate appointment and she had never agreed for *ex gratia* amount. Thus, at this stage, she is not entitled to *ex gratia* amount.

6. On being asked, Mr. Lohan, conceded contents of the communication dated 10.03.2016 and 18.03.2016.

7. I have heard the arguments of learned counsels for both sides and perused the record with their able assistance.

8. From the perusal of record, it is quite evident that since 2016 stand of the respondent-bank was that petitioner is entitled to *ex gratia* amount and she cannot be extended appointment on compassionate ground. The respondent-bank had determined amount of *ex gratia* compensation. The petitioner, at this stage, has agreed for *ex gratia* amount and respondent-bank cannot resile from its policy and stand. The respondent-bank cannot deflect from its responsibility on account of pendency of present petition or insistence of petitioner at the initial stage that she should be granted compassionate appointment.

9. 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. The petitioners approached this Court in 2018, however, due to heavy pendency, matter could not be adjudicated at the earliest. Thus, petitioner cannot be denied benefit of *ex gratia* amount which respondent was willing to pay in 2016.

10. In the wake of above discussion and findings, this Court is of the considered opinion that petitioner is entitled to *ex gratia* amount of ₹6 Lacs as sanctioned by respondent-bank along with interest @ 6% per annum. Accordingly, the respondent-bank is directed to release a sum of ₹6 Lacs along with interest @ 6% from 01.04.2016 till the date of payment. The

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needful shall be done within three months from the date of submitting requisite documents by the petitioner.

11. Disposed of in above terms.

(JAGMOHAN BANSAL)
JUDGE

01.02.2024
Mohit Kumar

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No