IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1447 of 2023
In
Civil Writ Jurisdiction Case No.15520 of 2022

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Manish Kumar Jha son of Late Raj Kumar Jha, resident of Mohalla-Adarsh Nagar Colony, Hanumanbag, Police Station-Madhubani, District-Madhubani, presently residing at A-309 B Durga Vihar, Devli, South Delhi, Pin-110062.

... ... Appellant/s

Versus

1. The Central Bank of India through its Chairman, Central Office, Chandramukhi, Nariman Point, Mumbai-400021.
2. The Chairman, Central Bank of India, Central Office, Chandramukhi, Nariman Point, Mumbai-400021.
3. The General Manager, Human Resources Department, Central Office, Chandramukhi, Nariman Point, Mumbai-400021.
4. The Chief Manager (HRD) Central Bank of India, Regional Office, Darbhanga.

... ... Respondent/s

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Appearance :
For the Appellant/s : Mr. Satish Chandra Jha 3, Adv.
Mr. Shambhoo Kumar Suman, Adv.
For the Respondent/s : Mr. Anup Kumar Sinha, Adv.

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date : 17-04-2025

Heard Mr. Satish Chandra Jha, learned Advocate for the appellant and Mr. Anup Kumar Sinha, learned Advocate for the respondent /Central Bank of India.

2. The father of the appellant, an employee of the Central Bank of India, died in harness on 14.10.2018. The appellant being a son but having crossed 30 years of age made an application before the Bank on 14.01.2019 for being appointed on compassionate ground in place of his father.

3. The Bank took almost two years to decide that the appellant did not fulfill the age criteria, which order was communicated to him vide letter dated 30.10.2021. However, the Bank offered *ex-gratia* payment to the family as per the provisions of the Bank policy.

4. The appellant challenged the aforenoted decision of the Bank vide CWJC No. 6915 of 2022.

5. A learned Single Judge of this Court vide his judgment dated 06.07.2022, after referring to the policy of appointment on compassionate grounds or payment

of lump-sum *ex-gratia* amount of the Bank, found that though the appellant was 08 months in excess of the requisite maximum age for making such application, there was no decision with respect to relaxation of the upper age limit which was permissible under the Bank's policy.

6. Clause -7 of the policy referred to above clearly stipulated that upper age limit could be relaxed wherever found to be necessary. The lower age limit would, in no case, be relaxed below the 18 years of age.

7. A note attached to Clause -7 further specified that age eligibility would be determined with reference to the date of application and not the date of appointment. Note-2 described that the authority competent to take final decision for making compassionate appointment in a case shall be competent to grant relaxation of age limit also for making such appointment.

8. The learned Single Judge thus gave the

liberty to the appellant to seek relaxation of the upper age limit in his case for being given compassionate appointment in place of his father.

9. Strengthened by this liberty, the appellant preferred an application before the Bank seeking relaxation in the upper age limit, which request was turned down vide communication dated 03.09.2022.

10. No grounds were disclosed for refusing relaxation in the upper age limit.

11. The appellant challenged the aforenoted decision of the Bank again before this Court vide CWJC No. 15520/2022, which too was rejected vide judgment dated 12.07.2023 which has been impugned in the present appeal.

12. While assailing the impugned judgment, Mr. Jha, learned Advocate for the appellant has submitted that perhaps the learned Single Judge went wrong on the date of filing of the application for consideration of compassionate appointment of the

appellant. Somehow or the other, an impression was created that the request letter was sent by the appellant on 26.07.2022 i.e. after about four years of the death of the employee. In fact, the appellant had applied within few months of death of his father for being considered for compassionate appointment. The other ground raised on behalf of the appellant was that the learned Single Judge readily agreed to the arguments advanced on behalf of the Bank that the relaxations in Clause-7 of the scheme, even though is specifically exempted from the normal recruitment procedure, but considering the recruitment policy of the Central Bank of India which provides for reservation of special class of people, relaxation of age was refused to the appellant/writ petitioner as he did not belong to any reserved category.

13. Such importation of recruitment policy in the scheme of compassionate appointment was thoroughly unwarranted and uncalled for. The Bank

could have been perfectly justified to give reasons for not relaxing the upper age limit considering the other provisions of the scheme namely that a compassionate appointment could be given only if a candidate was suitable in all respects, which condition existed even for grant of *ex-gratia* lump-sum payment on the death of an employee in harness. Thus, Mr. Jha has contended that even though 07 years have passed by since his father died, but the delay is not on account of him; rather he had been diligently pursuing his case.

14. Though no reasons were assigned by the Bank in refusing to relax the age requirement of the appellant, but in the writ proceeding, a ground which is absolutely non-existent was taken to defeat the claim of the appellant.

15. We, on perusal of the records of this case, find that the learned Single Judge did not at all advert to this aspect of the matter, namely, complete absence of any reason for refusing the relaxation in age which

normally is granted, if the age is not in too much excess of the upper age limit. The appellant / writ petitioner was only 8 months older than the maximum age limit for being granted compassionate appointment. There had to be a reason for refusing the relaxation; that also when the scheme clearly stipulated that the grant of compassionate appointment would be exempt from the normal procedure for recruitment (refer to ***Canara Bank Vs. Ajithkumar G.K.; Civil Appeal No. 255 Of 2025***).

16. This Court would not have gone into the sufficiency or the correctness of the reasons, but no reason having been assigned and the learned Single Judge having completely ignored the same, we are inclined to interfere in the matter.

17. The initial reluctance of this Court in interfering with the judgment passed by the learned Single Judge was because of the passage of time since the death of the employee but considering the fact that

the ordinary rule of litigation is that the right to relief should be decided by reference to the date on which a suitor enters the portals of the Court and not on the day when the decision is made, we find good reasons to keep aside our initial restraint.

18. The relief claimed by the appellant could still be denied on grounds of equity or on grounds of passage of time, but in the present case, the appellant cannot be blamed for the delay as he had been diligently pursuing his claim before the respondent/Bank and the High Court.

19. We, therefore, are of the view that irrespective of how old the appellant has become and how many years have passed since his father died, those cannot be determinative factors for foreclosing the claim of the appellant and barring him from the consideration of the same on merits.

20. After having said so, we also are of the view that since the appellant had been able to survive for

all these years, it would not be appropriate in this instance to immediately direct for appointment of the appellant or for relaxing the age requirement for compassionate appointment, without examination and assessment of the financial condition of the appellant for ascertaining whether the financial distress continues till date and that the appellant had not been gainfully employed in the meanwhile.

21. We, therefore, in the circumstances set aside the order passed by the learned Single Judge and direct the respondent/Bank to entertain a fresh petition by the appellant.

22. If such a fresh petition seeking relaxation of the upper age limit and consideration for compassionate appointment is filed within a period of two weeks from today, the respondent/Bank would first ascertain whether the appellant is in a hand-to-mouth or such impecunious condition that brushing aside such financial constraints would not be equitable and then would

consider whether the appellant deserves to be granted relaxation in the upper age limit, to be seen in the context of the appellant having applied for the same immediately after the death of his father and in case the Bank finds that the straightened financial condition of the family requires an interference, the Bank may consider relaxing the upper age limit for granting compassionate appointment.

23. We leave it to the wisdom of the Bank authorities to take an appropriate decision in this regard as the appellant has been shut out of the compassionate appointment process without any fault on his part.

24. For any decisions either for or against the appellant, reasons must be assigned and which shall be communicated to the appellant forthwith.

25. The exercise shall be completed within a period of three months, to be counted from the date of filing of a fresh petition by the appellant.

26. The appeal stands disposed of accordingly.

27. Interlocutory Applications, if any, also stands disposed of.

(Ashutosh Kumar, ACJ)

(Partha Sarthy, J)

sunilkumar/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	19.04.2025
Transmission Date	N/A