

15.01.2025
Ct. 23
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**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

WPA 27133 of 2023

Miss Sonali Mitra & Ors.

-Vs-

UCO Bank & Ors.

Mr. Gopal Chandra Ghosh,
Mr. Rajkrishna Mondal,
Ms. Sunandana Saha

... for the petitioners

Ms. Dipika Sarkar,
Mr. Rahul Sarkar

... for the respondent Bank

The petitioners are respectively the widow and daughters of Ramen Mitra, who died-in-harness on 29th August, 2008. On 3rd December, 2008 while working in UCO Bank. The petitioner no. 2 (widow) made an application for granting compassionate appointment to the petitioner no. 1, being the elder daughter of the deceased employee. The petitioner no. 3, being the younger daughter of the deceased employee, was a minor at the time of death of her father. Despite such application, no compassionate appointment was either given or the prayer was expressly rejected. The respondent Bank says that in 2018, the Bank had informed the petitioners that under the extant rules of the UCO Bank, the petitioners were entitled to receive

an ex-gratia amount. The respondent Bank says that the petitioners never claimed the ex-gratia amount by submitting the necessary documents but insisted upon granting of compassionate appointment.

Compassionate appointment, as is well settled, is not a matter of right but has been carved out of the scope of regular employment to support the bereaved family from getting over the immediate financial crisis faced by such family due to loss of the sole bread earner. Compassionate appointment is provided as per the Scheme, if any, prevalent in the employer's organization.

In the instant case, though the petitioners had sought for compassionate appointment but when it is found that there is no prevalent Scheme under which compassionate appointment can be granted to the petitioner no. 1 at the time of death of the employee, the petitioners are now agreeable to accept the ex-gratia amount foregoing their claim for compassionate appointment. In the meantime, about 16 years have passed away in which more than one round of litigation had taken place. Although, the petitioners had claimed for compassionate appointment immediately after the death of employee and is required to be given in a time bound manner without inordinate delay so that the whole purpose for granting the same does not get frustrated but has not been given even after 16 years.

The respondent Bank, assuming without admitting its stand to be correct prior to 2018 had never offered the ex-gratia amount to the petitioners. The claim for compassionate appointment was also not expressly rejected. The respondent Bank being a nationalized Bank ought to have made the position clear at the earliest to the family members of the deceased employee so that they did not pursue their claim for compassionate appointment.

Be that as it may when the petitioners have now agreed to receive the ex-gratia amount, the respondent Bank is directed to pay the same as per the applicable Scheme, with interest @ 6% per annum from the date immediately succeeding to the date of death of the employee concerned until the actual payment thereof. It is though submitted by the respondent Bank that the ex-gratia amount has been sanctioned and the Bank is ready to pay the same but no computation of the ex-gratia amount has been either placed before the Court or made known to the petitioners. The respondent Bank is directed to pay interest because the petitioners were entitled to receive the ex-gratia amount in lieu of compassionate appointment immediately after the death of the employee, which was not given. The respondent Bank, therefore, retained the money with itself and derived benefit therefrom, while on the other hand the petitioners, on having not received the same at the time

when the same was to be received by them, were thereby deprived of the benefit of such money. The respondent Bank, therefore, has to compensate the petitioners by paying the interest. The ex-gratia amount as per the Scheme has to be provided within 28th February, 2025 with interest after providing the petitioner a computation as to the amount receivable by them on account of ex-gratia and interest.

It will be open to the petitioners to note their dissent regarding the correctness of the computation, if there is any and receive the amount paid without prejudice to their rights and contentions. It will also be open to the petitioners to claim further amount, if they are entitled to in law.

Nothing further remains to be adjudicated in this writ petition. The same is accordingly disposed of.

All parties shall act on the basis of the server copy of this order duly downloaded from the official website of this Court without insisting upon production of certified copy thereof.

(Arindam Mukherjee, J.)