

W.P.No.42541 of 2006

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 29.10.2025

Pronounced on : 31.01.2025

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CORAM

**THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER
KUMAR**

W.P.No.42541 of 2006

R.Samson

... Petitioner

Vs.

1. State Bank of India,
Represented by its Chief General Manager,
Local Head Office, Circletop House,
16, College Lane, Chennai – 600 006.
2. Assistant General Manager (Office Administration),
State Bank of India,
Local Head Office, Circletop House,
16, College Road Lane, Chennai - 600 006.
3. State Bank of India,
Represented by its Chairman,
16th Floor, Corporate Centre,
New Administrative Building,
Madama Cama Road, (Nariman Point),
Back Bay Reclamation, Mumbai – 400 021.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India,
to issue a Writ of Declaration, declaring that the order bearing
Ref.No.OMD/ 1/4300 dated 17.09.1992 read with order No.OAD/174 dated



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15.10.2005 and OAD.154 dated 06.09.2006 issued by the second respondent on behalf of the Bank is illegal, contrary to the provisions of the Bipartite Settlement, Sastri and Desai Award, the ID Act and violative Article 21 and 41 of the Constitution of India and consequently direct the respondents to reinstate the petitioner in service with effect from 17.09.1992 with full backwages, continuity of service, consequential and other attendant benefits.

For Petitioner : Mr.K.M.Ramesh, Senior Counsel
for Mr.V.Subramani

For Respondents : Mr.C.Mohan,
Ms.A.Rexy Josephine Mary
for M/s.King & Partridge

ORDER

This is an unfortunate case, wherein the petitioner who was appointed as 'Sweeper-cum-Packer' in the respondent Bank's services at Stationary Department of the local Head Office at Madras on compassionate grounds on the demise of his father, who worked as 'Packer' in the respondent Bank over a period of 26 years and died in harness, but the petitioner was deprived of the said compassionate appointment because of the litigation initiated by some third party claiming to be the legally wedded wife of the deceased employee of their bank. The said litigation initiated by the third



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party came to an end in favour of the petitioner herein and his mother. But because of the interim injunction order passed in O.S.No.5569 of 1991 on the file of the court of the XVIII City Civil Court, Chennai, the said appointment was cancelled and the petitioner was relieved from the services of the Bank on 17.09.1992 i.e, within a period of four months from the date of his appointment on 27.05.1992.

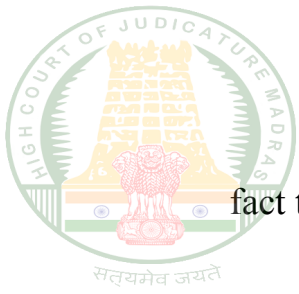
2. Though the entire civil litigation that was initiated against the Mother of the petitioner and petitioner herein ended in favour of the petitioner by the year 2002, the claim of the petitioner was negated by the respondents by an order dated 15.10.2005, on the ground that the very scheme for compassionate appointment has been scrapped in the respondent Bank and also on the ground that the case of the petitioner for compassionate appointment cannot be considered after a lapse of reasonable period of time. It is aggrieved by the said order dated 15.10.2005, as confirmed in appeal by an order dated 06.09.2006, the petitioner approached this court by filing the present writ petition in the year 2006. By the date of filing of the present writ petition, the petitioner was aged 42 years and now the petitioner has already crossed 60 years of age and also



attained the age of superannuation.

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3. As already noted above, the claim of the petitioner is for compassionate appointment. Though he was successful in securing such compassionate appointment as early as in the year 1992 itself, he was deprived of such appointment. But, the fact remains that the petitioner was found eligible for compassionate appointment in terms of the scheme for compassionate appointment, which was in vogue in the respondent Bank at the relevant point of time. But because of the civil litigation initiated by the third party, who was ultimately found to be nothing to do with the deceased father of the petitioner, the compassionate appointment that was secured by the petitioner was taken away by the respondent Bank. In view of the success of the petitioner and his mother in the civil litigation coupled with the fact that the petitioner was found eligible for compassionate appointment as early as in the year 1992 by the respondent Bank itself, on conclusion of the civil litigation, the petitioner would have been automatically re-appointed in the same post to which he was originally appointed in the year 1992 on compassionate grounds. Delay in that connection from 1992 to 2002 is absolutely an irrelevant factor because the



fact that the eligibility of the petitioner was not in dispute in the year 1992.

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4. No doubt whether the petitioner is entitled for such compassionate appointment in the year 2002 i.e., after conclusion of the civil litigation or not, is again the matter for consideration by the respondent Bank. But, the respondent Bank, without undertaking any such exercise, on the ground of long lapse of time, negatived the claim of the petitioner for compassionate appointment in the year 2005, while taking a plea that the very scheme for compassionate appointment has been scrapped in the respondent Bank through proceedings dated 15.10.2005.

5. However, it is relevant to note that, during the course of arguments, Sri.Mohan, learned counsel appearing for the respondent Bank has brought to the notice of this court that the respondent Bank after having scrapped the scheme for compassionate appointment, has introduced a scheme for payment of *ex-gratia* lumpsum amount through e-circular dated 04.08.2005 and in terms of the said scheme, an application for payment of such *ex-gratia* lumpsum amount is required to be made within the time prescribed under the scheme and the prescribed time is six months time

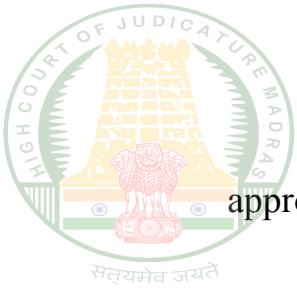


from the date of death of the employee and such time also elapsed in the instant case.

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6. Sri.C.Mohan, learned counsel for the petitioner also placed reliance on various decisions of the Hon'ble Apex Court as well as the decision of this court contending that the question of providing compassionate appointment on compassionate grounds at this stage of time after a long lapse of time since the date of death of the deceased employee does not arise.

7. On the other hand, Mr.K.M.Ramesh, learned Senior Counsel appearing for the petitioner contended that the respondent Bank, having found the petitioner eligible for compassionate appointment and having appointed the petitioner, is under obligation to re-appoint the petitioner on conclusion of civil litigation in the year 2002, but it is only because of the failure on the part of the respondent Bank in issuing appropriate appointment orders to the petitioner and delaying the same till the year 2005, the petitioner is deprived of the benefit of compassionate appointment and therefore, the respondent Bank is liable to compensate the petitioner



appropriately.

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8. This court has carefully considered the submissions made on either side.

9. As already noted above, the petitioner has already attained the age of superannuation and he is aged more than 60 years as of now. Therefore, the question of granting any relief directing for appointment on compassionate appointment of the petitioner does not arise. The appointment on compassionate ground is a concession extended by the employer to meet certain circumstances, wherein the dependants of the deceased employee are left in penury and without any means of livelihood. But, the same cannot be claimed as a matter of right. However, once there is a scheme provided for such compassionate appointment, the consideration of such compassionate appointment cannot be denied.

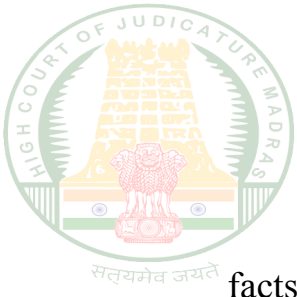
10. In the instant case, as already noted above, the scheme for compassionate appointment was given a go-bye by introducing another scheme for payment of *ex-gratia* lumpsum amount with effect from 04.08.2005. In the light of the said scheme for payment of *ex-gratia*



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lumpsum amount, the respondent Bank, in all fairness ought to have considered the case of the petitioner for payment of such *ex-gratia* lumpsum amount by duly considering the financial conditions of the petitioner in the year 2005, instead of simply rejecting the claim of the petitioner for compassionate appointment through proceedings dated 15.10.2005. But for the reasons best known, the respondent Bank having taken note of the scrapping of subsisting scheme for compassionate appointment, failed to consider the claim of the petitioner in that direction under the new scheme for payment of *ex-gratia*.

11. As the granting any relief with regard to compassionate appointment of the petitioner at this length of time is not possible and the same cannot be claimed as a matter of right or as a matter of course, this court is of the considered view that it is a fit case where the respondent Bank can be directed to consider the case of the petitioner for grant of *ex-gratia* lumpsum amount in terms of the scheme dated 04.08.2005, without reference to the limitation prescribed in the said scheme for making an application for payment of such *ex-gratia* lumpsum amount.



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12. In the light of the above and taking into consideration the overall facts and circumstances of the case, as well as the manner in which the petitioner was deprived for his appointment, to which he is otherwise legally entitled to, the writ petition is **disposed of** directing the respondents to consider the claim of the petitioner for payment of *ex-gratia* lumpsum amount in terms of the scheme dated 04.08.2005 and pay the eligible amount in terms of the said scheme to the petitioner by duly taking into consideration the observations made herein above, as expeditiously as possible, at any rate within a period of two months from the date of receipt of a copy of this order. If the petitioner is to submit any application for consideration of his case in terms of the above said scheme, the Respondent No.2 is directed to intimate the petitioner about any such requirement within a period of two weeks from the date of receipt of a copy of this order. No costs. Connected miscellaneous petitions, if any, shall stand closed.

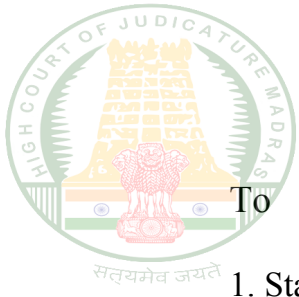
31.01.2025

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No



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To

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MUMMINENI SUDHEER KUMAR, J.

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Pre-Delivery Order made in
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