IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2025

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.12331 of 2023

Mangeshrajan ....Petitioner

Versus

1.The Chief General Manager,
State Bank of India,
Chennai Local Head Office,
“Circletop House”, 16, College Lane,
Nungambakkam, Chennai – 600 006

2. The Assistant General Manager (HR)
HR Department, State Bank of India,
Chennai Local Head Office,
“Circletop House”, Post Box no.737,
16, College Lane, Nungambakkam,
Chennai – 600 006

3. The Deputy General Manager,
(Personal and HR)
State Bank of India, Zonal Office,
No.86, Rajajisalai,
Chennai – 600 001

4. The Branch Manger,
State Bank of India,
Mannargudi Branch. ....Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the respondent-Bank to consider petitioner's application dated 18.06.2016 and subsequent oral representations to provide suitable post (based on the judgment of this Court dated 13.09.2021) for compassionate appointment on account of the untimely demise of death of petitioner's father on 27.02.2015 and to pass consequential orders within three months from the date of disposal of the present petition.

For Petitioner	:	Mr.N.G.R.Prasad for Mr.R.Thirumoorthy
For Respondents	:	Mr.N.Ramesh for R1 and R2 R3 and R4 – No appearance

ORDER

The Writ Petition has been filed for an issuance of a Writ of Mandamus directing the respondents-Bank to consider petitioner's application dated 18.06.2016 and subsequent oral representations to provide suitable post (based on the judgment of this Court dated 13.09.2021) for compassionate appointment on account of the untimely demise of death of petitioner's father on 27.02.2015 and to pass consequential orders within three months from the date of disposal of the present petition.

2. The brief facts of the case, as averred by the petitioner are as follows:-

The petitioner's father, namely, Chakrathari was employed as a messenger in the respondent Bank for more than 18 years. While he was in service, he died on 27.02.2015 leaving behind his wife, two married daughters, one unmarried daughter and the petitioner. The family, having lost the sole breadwinner, faced significant financial constraints and the petitioner had to discontinue his diploma course in Electrical and Electronic Engineering. Therefore, the petitioner applied for compassionate appointment on 18.06.2016 which was well within 3 years, providing necessary documents (i.e. legal heir certificate & death certificate) but the application has not been processed despite repeated requests. In the meanwhile, the 4th respondent issued cheque in the name of petitioner's mother and deposited the cheque amount in the account without their consent. The respondent Bank on a wrong understanding of the legal position paid the family a compensation of Rs.5 Lakhs stating that the petitioner was not entitled to compassionate appointment but only monetary benefits. Hence the petitioner returned the compensation deposited by the respondent bank and instead requested compassionate appointment based on the e-circular dated 16.03.2021 issued by bank, wherein, in case, an employee dies while in service, his family can claim compassionate appointment. Till date the request of the petitioner was not considered, hence, the petitioner has come up with the present writ petition.

3. Per contra, the learned counsel for the respondents 1 and 2 in their counter affidavit stated as follows:-

(i) The petitioner's claim for compassionate appointment is untenable, as per the prevailing scheme at the time of his father's death in year 2015. The respondent- Bank followed circular No.CDO/P&HRD-PM/65/2014-15 dated 27.12.2014, which limited compassionate appointments to exceptional circumstances, none of which applied to the petitioner. Instead, the petitioner and his family voluntarily opted for payment of ex-gratia lump sum amount by preferring an application dated 16.12.2015 and already accepted the Ex-gratia lump sum amount of Rs.5, 00,000/- without any demur, and making a subsequent claim for compassionate appointment is untenable. Furthermore, the e-circular No. CDO/P&HRD-PM/90/2020-21 dated 16.03.2021, which was neither prevalent at the time of death of the deceased employee nor retrospectively applicable to the present case. During Covid pandemic, respondents-Bank revised its scheme for compassionate appointment effective from the date of the circular, however, covering death due to Covid-19 with retrospective from 24.03.2020. So, the circular which was relied upon by the petitioner is explicitly and strictly limits the retrospective application of the circular from 24.03.2020, exclusively to the dependants of employees who have expired due to covid-19 not retrospectively applicable to the petitioner's case. The petitioner's attempt to seek double benefits is legally untenable. Hence, prays to dismiss the present writ petition.

4. The learned counsel for the petitioner contends that the respondent Bank wrongly paid an ex-gratia amount of Rs.5Lakhs, stating that they were not eligible for compassionate appointment, but the petitioner returned the said compensation and requested a compassionate appointment. Further, the letter dated 16.03.2017, denying compassionate appointment by the chief manager was not received by the petitioner hence it cannot be considered. Further, the learned counsel relied on the judgment in W.P.No.31459 of 2005 dated 13.09.2021 and the Ruling of the Supreme Court in ***N.C.Santhosh Vs. State of Bank of Karnataka & Ors*** dated 04.03.2020, which clarifies that the norms prevailing at the time of consideration of application should be the basis for consideration of claim , not the date of death. Further, the learned counsel also relied on the following judgments to substantiate his claim for compassionate appointment:

I) Smt.Maharani Devi Wife of Late Kailash Singh v. Union of India [2011 129 FLR 296; 2011 1 PLJR 498]

ii) Praveen S.Kurup v. The Chairman cum Managing Director Bharat Sanchar Nigam Ltd [2015 Supreme (Ker) 908]

iii) The Chief General Manager, State Bank of India and Ors. Vs. M.Santhosh [MANU/TN/2856/2017]

Further, the learned counsel for the petitioner argues that the Hon'ble Apex Court has taken the view that the very basis for compassionate appointment is that the family should be able to tide over a period of crisis and the said family is entitled for compensation and not compassionate appointment. Therefore, the circular of the respondent bank of Ex-gratia payment cannot be validly put as a defense. The respondent Banks e-circular dated 16.03.2021, which allows for compassionate appointments, should apply to the petitioner's case, as the petitioner has met all qualifications for the position and seeks this Court's intervention.

5. On the contrary, the learned counsel for the respondents 1 and 2 contends that as per circular dated 27.12.2014, compassionate appointment was restricted to exceptional circumstances, namely:

> *"· Death of an employee while performing official duty due to violence, terrorism, robbery, or dacoit.*
>
> *· Death of an employee within five years of first appointment or before reaching the age of 30 years, leaving a dependent spouse and/or minor children."*

Since the cause of death of the deceased employee does not fall under any of the extraordinary circumstances stipulated in the scheme, his dependant/ family members were not eligible for compassionate appointment but only for payment for ex-gratia lump sum amount in lieu of compassionate appointment.

6. The learned counsel for the respondents 1 and 2 also contends that the petitioner have not disclosed the fact that petitioner's mother preferred application dated 12.06.2015 for payment of ex-gratia amount of Rs.5,00,000/- with letter of authorization dated 12.06.2015 which was signed by all the dependants including the petitioner, authorizing the petitioner's mother to receive the ex-gratia amount. Further, on 13.06.2015 acceptance affidavit was also filed by petitioner's mother. Further, the learned counsel for the respondents relied on the following judgments of the Hon'ble Apex Court :

- ***Indian Bank & Ors V. Promila & Ors reported in (2020) 2 SCC 729***
- ***Secretary to Govt., Department of Education V. Bheemesh (2021) 20 SCC 707.***

Wherein, the Hon'ble Apex Court consistently held that compassionate appointment must be governed by the scheme prevailing at the time of the employee's death. Further, in the E-circular dated 16.03.2021, certain relaxations were accorded in the event of death due to Covid-19. The said scheme was made applicable to a dependent family member of confirmed regular permanent employee of the bank who; *(i) dies while in service (including death by suicide) or (ii) retired on medical* *grounds due to incapacitation before reaching the age of 55 years*.

7. Further, the learned counsel for the respondents 1 and 2 contends that the petitioner is not eligible for the compassionate appointment under the scheme of the year 2014 and 2021 and to substantiate his stand he relied on the judgment of the Hon'ble Supreme Court in the case of ***State of Madhya Pradesh V. Ashish Awasthi (2022) 2 SCC 157*** where at Paragraph No.5 it is held as follows:

> *"5. As per the settled proposition of law laid down by this court for appointment on compassionate ground, the policy prevalent at the time of death of the deceased employee only is required to be considered and not the subsequent policy."*

8. Heard the learned counsel on either side and perused the documents placed on record.

9. Admittedly, the petitioner's father, namely, Chakrathari was employed as a messenger in the respondent Bank for more than 18 years and died on 27.02.2015, while he was in service leaving behind his wife, two married daughters, one unmarried daughter and the petitioner. Therefore, the petitioner applied for compassionate

appointment on 18.06.2016, which was well within 3 years, providing necessary documents (i.e. legal heir certificate & death certificate) but the application has not been processed despite repeated requests.

10. It is the contention of the petitioner that the petitioner returned the exgratia amount and insisted on being considered for compassionate appointment under the Circular 2021, but the proofs would show that petitioner's mother application dated 12.06.2015 for ex-gratia amount was received and signed by all the dependants including the petitioner authorizing the petitioner's mother to receive the exgratia amount and the affidavit dated 13.06.2015 also confirms the acceptance of the ex-gratia amount. Now, indicating that the petitioner and Dependants of the deceased returned the amount, cannot be accepted. The petitioner's mother voluntarily applied for and accepted the ex-gratia payment in the year 2015. A formal application and an affidavit of acceptance were submitted.

11. Further, as per Judgment of Hon'ble Supreme Court in Indian Bank & Ors Vs.Promila & Ors (2020) and State of Madhya Pradesh Vs. Ashish Awasthi reported in (2022), the legal position is clear that the compassionate appointment must be governed by the scheme

prevailing at the time of the employee's death. The scheme prevailing in the year 2015 (Circular No.CDO/P&HRD-PM/65/2014-15) restricted compassionate appointments to exceptional circumstances i.e. death due to violence, terrorism, or before completing five years of service). The petitioner’s case does not fall under these exceptions.

12. Further, as per the Judgment of the Apex Court in **N.C.Santhosh V. State of Karnataka (2020),** which states that norms prevailing at the time of consideration should be applied and not the date of death. That apart, the Hon’ble Apex Court in **State of Madhya Pradesh and others v. Ashish Awasthi (2021),** held their view that for deciding the compassionate appointment, the policy prevalent at the time of death of deceased employee only is required to be considered and not subsequent policy. Hence, the petitioner is not eligible to be considered under E-circular dated 16.03.2021.

13. It is relevant to note that the prevailing policy at the time of the employee’s death typically governs eligibility for compassionate appointments. The rule prevailed at the time of petitioner's father death is circular No.CDO/P&HRD-PM/65/2014-15 dated 27.12.2014, which restricted compassionate appointment to exceptional circumstance.

Since, these conditions were not met, the family was eligible for an Ex-gratia payment of Rs.5,00,000/-, which the petitioner and his family members accepted. The petitioner places reliance on an e-circular dated 16.03.2021, which expanded eligibility for compassionate appointments. However, legal precedents, including the Hon'ble Supreme Court's decision in ***State of Madhya Pradesh and others v. Ashish Awasthi (2021)***, establish that such policies do not apply retroactively and held that the policy in effect at the time of the employee's death is the determining factor for compassionate appointment eligibility and subsequently amendments cannot be applied retrospectively. The petitioner and his family accepted the ex-gratia payment provided under the policy in effect at the time of the father's death. This acceptance viewed as settlement of claims related to the employee's death, potentially precluding subsequent claims for compassionate appointment.

14. At this juncture, it is pertinent to point out that the argument of the learned counsel for the petitioners that the letter dated 16.03.2017 sent by the Chief Manager, was not received by the petitioner cannot be accepted because, it was accepted by one of the elder in his family member i.e. his mother.

15. In light of the above, the petitioner's claim for compassionate appointment appears to be inconsistent with the policy that was in effect at the time of his father’s death, as well as with established legal precedents. Therefore, the Writ Petition is dismissed. No costs.

17.**04.2025**

Index : Yes/No
Speaking/Non Speaking order
ssd

To

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“Circletop House”, 16, College Lane,
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2. The Assistant General Manager (HR)
HR Department, State Bank of India,
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(Personal and HR)
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No.86, Rajajisalai,
Chennai – 600 001

4. The Branch Manger,
State Bank of India,
Mannargudi Branch.

V.BHAVANI SUBBAROYAN,J

ssd

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