2025:PHHC:030812

IN THE PUNJAB AND HARYANA HIGH COURT AT CHANDIGARH

223 **CWP-10189-2019**

Date of Decision: 03.03.2025

DALJEET SINGH

... Petitioner

VERSUS

PUNJAB NATIONAL BANKS AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

****

Present: Mr. Parveen Chauhan, Advocate for the petitioner.

Mr. Saurav Verma, Advocate for the respondents.

****

VINOD S. BHARDWAJ, J. (ORAL)

Challenge in the present petition is to the speaking order dated 17.08.2017 (Annexure P-9), whereby the respondent-Bank rejected the claim of the petitioner under the prevailing Compassionate Assistance Scheme, issued vide HRD Division Circular No.433 dated 03.11.2007, on account of death of his father, who was an employee of the bank

Learned counsel for the petitioner contends that Dhian Singh, deceased, father of the petitioner, was working as an Armed Guard at Branch Office, Putligarh of the respondent-Bank and was a regular employee since 16.04.1984. He died on 12.10.2003, during the course of his employment, after completing 19 years 5 months and 26 days of service and was survived by his widow, three daughters and two sons. The petitioner being his son applied for grant of *ex-gratia* financial assistance or appointment but neither the financial assistance was extended nor any compassionate appointment was offered to the petitioner. It is further contended that the petitioner had earlier approached this Court by filing Civil Writ Petition No.588 of 2017, wherein the entitlement of the petitioner for *ex-gratia* financial assistance was upheld but notwithstanding the same, adequate *ex-gratia* compensation was not granted under the scheme.

Counsel for the respondents-bank, on the other hand, contends that the claim of the petitioner for grant of compassionate appointment had been declined by the Bank and the said decision of the respondent-bank had been affirmed by this Court in its judgment dated 15.05.2017 passed in CWP No.588 of 2017 titled as 'Daljeet Singh Versus Punjab National Bank and Others'. The respondent-Bank was, however, directed to consider the claim of the petitioner for grant of *ex-gratia* financial assistance in terms of the policy framed by the bank. The operative part of the said order reads thus: -

> *"None of these elements is present in this case to consider in a request for issuance of writ of mandamus commanding the bank to provide a job to the petitioner. Even to consider such request the petitioner is overage. No interference is warranted in this case.*
>
> *Nevertheless, the ex gratia amount of financial assistance, if not paid, be considered for disbursement by the Bank by way of RTGS in the petitioner's mother account or by other means as instructed by the mother of the petitioner as the money would, when paid, in the first instance belong to her coming directly from her husband. The Bank would on a consideration of the matter transfer the fixed ex gratia amount with interest @ 10% per annum [the amount being a little over `30,000/-] from the date of death of the employee on 12.10.2003 till payment as policy makes it incumbent to deliver without procedural red tape as per HR Division Circular No.433 dated 03.11.2007, which Circular though not cited in the petition but is taken judicial notice of when brought to the notice of the Court saving all exceptions. The Bank would also consider its decision on ex gratia payment in the light of the decision of Supreme Court in* ***M.G.B.Gramin Bank vs.***

> ***Chakarvarti Singh,*** *(2014) 13 SCC 583. The Supreme Court in this case has held that it is a date of consideration which should be kept in mind to deal with compassionate appointment and ex gratia financial support as it would in the case of late Sh. Dhian Singh's wife -LRs.*
>
> *The bank would pass a speaking order on the payment rights under the present or past policy, whichever is applicable, in accordance with law.*
>
> *Let such a decision be taken within a period of three months. If hearing is asked for by the family of the late Dhian Singh, the same will be granted. If payment is found due it would be calculated and paid within the same time frame but not later than one month of the final decision."*

He submits that since the decision of the bank rejecting claim of the petitioner for compassionate appointment has already been upheld by this Court, hence, the same cannot be re-agitated herein and the petitioner would be estopped from seeking the said relief. It is further submitted that insofar as the entitlement of the petitioner for grant of *ex-gratia* financial assistance is concerned, the same was duly considered by the bank in terms of the applicable policy circular No.433 dated 03.11.2007, which also provides for the method for calculation of amount of *ex-gratia* financial assistance. The benefits have been paid as per the same and specific stand of the bank remains undisputed. The operative part of the averments as contained in paragraph No.11 of the preliminary objections is extracted as under: -

> *"11. That through present writ petition petitioner is illegally trying to re-agitate the issue which has already been dealt and decided by this Hon'ble court. The contentions made in the present*

petition, wherein petitioner is claiming Ex-Gratia lump sum amount of Rs.7 Lac is completely false and misconceived. The interpretation drawn by petitioner is completely false and misleading. The direction of this Hon'ble court for payment of Ex-Gratia amount to mother of Petitioner i.e. Smt. Gawdi Devi, has already been complied by Answering Respondent Bank, therefore no right subsists in favor of petitioner to re-agitate the matter further. It would be further worthwhile to mention here that the speaking order dated 17/08/2017 (Annexure P-9) had been passed after carefully considering the judgment passed by Hon'ble Supreme Court of India in MGB Gramin Bank v. Chakrawarti Singh. Further it is stated that petitioner is trying to misconstrue the judgment dated 15/05/2017 for oblique motives. It is stated that the amount of Ex-Gratia had been calculated by Answering Respondent Bank in view of the prevailing policy guidelines at the time of death of father of petitioner. Still further it would be worthwhile to state here that there would be no change in the calculation of Ex-Gratia amount even if the case of petitioner is considered under Policy Circular No.235 dated 07/01/2005 or Policy Circular No. 433 dated 03/11/2007, as even as per Circular No. 433 dated 03/11/2007 the method of calculation of Ex-Gratia has been provided as under: -

"9. AMOUNT OF EX-GRATIA PAYABLE UNDER THE SCHEME:

If otherwise eligible to seek assistance under the scheme, the family of an employee may be considered for receiving this assistance where the total monthly income of the family arrived at para 8 (G) above is less than 60% of the last drawn notional gross salary of the employee (net of notional taxes) for the complete month, during which he/she has expired or has been approved for premature retirement owing to incapacitation on medical grounds.

In such cases, the amount of Ex-Gratia payable shall be equivalent to 60% of the last drawn notional gross salary (net of notional taxes), payable for each month of remaining notional service of the employee (i.e. up to the notional age of normal superannuation in terms of extant service rules/ conditions) at the time of his death/incapacitation.

Subject to cadre-wise ceiling of "Maximum Amount" as follows: -

Category	***Maximum Amount Payable***
Officers	***Rs.8.00 lakhs***
Clerical Staff	***Rs.7.00 lakhs***
Subordinate Staff	***Rs.6.00 lakhs"***

It would be material to state here that father of petitioner namely Late Sh. Dhian Singh died on 12/10/2003 and the actual date of superannuation of Late Sh. Dhian Singh was 31/03/2004, further last gross salary of Late Sh. Dhian Singh was 4825/- and only 5 months and 20 days of service was left for his actual superannuation, therefore keeping in view the above facts and prevailing policy answering respondent bank has rightly calculated the Ex-Gratia Amount.

In ***MGB Gramin Bank vs. Chakrawarti Singh****, the Apex Court held that: "8. The Courts and the Tribunals cannot confer benediction impelled by sympathetic considerations to make appointments on compassionate grounds when the regulation framed in respect thereof did not cover and contemplate such appointments." Therefore, the gist of the cited case law is that if the organization's rules and regulations do not allow compassionate appointment, same cannot be granted as a matter of right. The family of Late Shri Dhian Singh was paid ex-gratia under HRD Division Circular No. 433 dated 03/11/2007 read with HRDD Circular No. 502 dated 06/12/2008. Under HRD Division Circular No. 433 dated 03/11/2007 (titled Modified Scheme for* *consideration of extending financial assistance as ex-gratia (lump sum) amount or employment on compassionate grounds in exceptional cases: to family of employees who expire while in harness). Employment on compassionate grounds may be considered in clerical/sub staff cadres for a dependent 'next of kin' of a deceased employee who expires while in harness, i.e., while in the service of the Bank, keeping in view the financial condition of the bereaved family, in terms of the Modified Scheme, only under circumstances specified below:*

a. Where an employee dies while performing his official duty, as a result of violence, terrorism, robbery or dacoity; or,

b. Where an employee dies within 5 years of his 'first appointment' or before he reaches the age of 30 years, whichever is later, leaving behind a dependent spouse and/or minor children.

*The case of **M.G.B. Gramin Bank Vs. Chakarvarti Singh (Supreme Court)** is not in favour of the petitioner yet he is interpreting the said judgment in ways unimaginable."*

He contends that as per the said scheme, the payable amount of *ex-gratia* financial assistance is equivalent to the 60% of the last drawn notional gross salary payable for each month of remaining notional service of the deceased employee. It is submitted that Dhian Singh died on 12.10.2003 and his actual date of superannuation was 31.03.2004. His gross salary was Rs.4,825/- and hence, the *ex-gratia* benefits have been calculated for the remaining notional service of five months and twenty days. He submits that an amount of more than Rs.88,000/- already stands disbursed in favour of the petitioner, but he is claiming the compensation of six lacs, which is a maximum ceiling on the *ex-gratia* compensation for the subordinate staff and is not a matter of minimum *ex-gratia* compensation to be awarded.

I have heard the learned counsel for the respective parties and have gone through the documents and other material available on record with their able assistance.

Undisputedly, Dhian Singh had expired on 12.10.2003. The claim of the respondent Bank that Dhian Singh was due to superannuate on 31.03.2004 has also not been disputed by the petitioner's counsel. No replication or rejoinder has been filed by the petitioner.

Further, the specific case set up by the respondent-Bank was that the *ex-gratia* financial assistance has been calculated in terms of the circular No.433 dated 03.11.2007 as is also being relied upon by the petitioner for claiming the said benefit. Clause 9 thereof specifically provides that the *ex-gratia* financial assistance for the remaining notional service is to be calculated at the rate of 60% of the last drawn gross salary. Counsel for the respondent-Bank further submits that the *ex-gratia* compensation in the present case has been worked out by adopting the prescribed method of calculation i.e. taking into consideration the 60% of the last drawn gross salary of Rs.4,825/- for the remaining notional service of five months and 20 days. Neither has any replication been filed by the petitioner denying the said specific averment/objection raised by the respondent-bank in its reply, (even though a period of nearly four and a half years has elapsed since filing of the written statement) nor is there any challenge to the clause meant for assessment of *ex-gratia* financial assistance.

Under the given circumstances, this Court has no material on record on the basis whereof it may be held that the respondent-Bank has not released the *ex-gratia* financial assistance in favour of the petitioner in terms of the applicable HRD Circular No.433 dated 03.11.2007.

Finding no merit, the present petition is accordingly dismissed.

(VINOD S. BHARDWAJ)
JUDGE

MARCH 03, 2025.
Rajender

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