2025:PHHC:029266

IN THE PUNJAB AND HARYANA HIGH COURT AT CHANDIGARH.

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CWP-13896-2021 (O&M).
Date of Decision: 01.03.2025.

SEEMA YADAV

... Petitioner

Versus

UNION OF INDIA AND OTHERS

... Respondent(s)

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

Present: Mr. Aditya Yadav, Advocate, for the petitioner.

Mr. Nitin Gupta, Advocate, for respondents No.2 to 4.

VINOD S. BHARDWAJ, J. (ORAL)

Challenging the order dated 03.06.2021 (Annexure P-6) passed by the General Manager, Canara Bank, Karnal, declining the benefit under the ex gratia claim filed by the petitioner as also on account of non-payment of the compensation on account of death during the Covid - 19 pandemic, the present writ petition has been filed.

2 Learned counsel for the petitioner has drawn attention of this Court to the operative part of the impugned order which reads thus:-

"In this regard, we regret to inform you that on perusal and processing of your request /representation and the

connected papers, the Competent Authority has not considered your request for Compassionate Appointment favourably as there were no indigent circumstances and the case does not fall within the parameters of the policy."

3 It is evident from the above that the claim of the petitioner has been declined by the respondents on the ground that claim of the petitioner for compassionate appointment cannot be considered since there were no indigent circumstances as the petitioner had been granted benefits to the tune of Rs. 1 Crore on account of various investments/Life Insurance Policies that had been obtained by her deceased husband. He further draws the attention of this Court to the Scheme for compassionate appointment or payment of lumpsum ex-gratia amount in lieu of compassionate appointment issued by the respondent Bank vide HO CIR.296/2020 dated 18.04.2020 prescribing the General Rules for consideration of cases under the *ex gratia* account. Clause 19 (7) thereof is extracted as under: -

> ***"19. General Rules***
>
> ***Procedure****:*
>
> *xxx xxx xxx*
>
> *7. An application for compassionate appointment shall, however, not be rejected merely on the ground that the family of the employee has received the benefits under the various welfare schemes. While considering a request for appointment on compassionate grounds, a balanced and objective assessment of the financial condition of the family has to be made taking into account its assets and liabilities (including the benefits received under the various welfare schemes mentioned above) and all*

other relevant factors such as the presence of an earning member, size of the family etc."

4 It is specifically provided that the claim for compassionate appointment cannot be rejected on the ground that the family of the employee has received the benefits under the various welfare schemes. A balanced and objective assessment of the financial condition of the family has to be made taking into account its assets and liabilities (including the benefits received under the various welfare schemes mentioned above) and all other relevant factors such as the presence of an earning member, size of the family and responsibilities etc.

5 He contends that the respondents did not undertake the said exercise before declining the claim and that he would be satisfied at this stage in case, the respondents are directed to consider the case of the petitioner in terms of the said policy and thereafter to evaluate as to whether the petitioner is entitled to the benefits or is disentitled on not meeting the bona fide requirements as prescribed by the respondent Bank.

6 He further refers to the circulars of the respondent Bank (Annexures P-11 and 12) regarding payment of compensation for bank employees in case of death during Covid – 19 pandemic. It is submitted that husband of the petitioner died on 23.12.2020 in the first wave of Covid -19, however, the claim for compensation has been declined solely on the ground that the post mortem report is not available to ascertain the cause of death. It is submitted that on account of various precautionary measures being in force

during the said time, the post mortems were not being conducted. He submits that as per the death summary issued by the MEDANTA Mediclinic Cybercity, the diagnosed cause of death has been pointed out as "Post Covid Pneumonia." The relevant extract of the death summary reads thus: -

> *"Diagnosis and cause of Death: Bilateral Acute MCA Infarcts with Diffuse Cerebral Edema*
> *Bilateral ICA Stenosis*
> *Type 2 diabetes mellitus (Recently diagnosed)*
> *Hypertension (Recently diagnosed)*
> *Post Covid Pneumonia"*

7 Relying on the same, he contends that the cause of death is directly relatable to Post Covid Pneumonia and any insistence on submission of post mortem report, when the same was not being conducted under the Government orders, cannot form the basis for denial of the claim despite the specific policy issued by the respondent.

8 Learned counsel for the respondent Bank, however, contends that the claim for compensation has been denied since there was no post mortem report to conclusively determine that the death was actually on account of Covid -19 Pandemic and that the claim of the petitioner for compassionate appointment/ex gratia compensation was declined on account of the various financial benefits to the tune of Rs.1.8 crores approximately

that had already been released in favour of the petitioner by way of investments as well as the terminal benefits.

9 I have heard the learned counsel for the respective parties and have gone through the documents appended along with the present petition.

10 So far as the claim of the petitioner for grant of compassionate appointment as well as ex gratia compensation under the Scheme of respondent Bank is concerned, a perusal of the Clause 19 (7) of the Scheme extracted in the preceding part of this order clearly shows that consideration of the case for grant of compassionate appointment as well as ex gratia compensation has to be done on the basis of the factors prescribed therein and a benefit of consideration cannot be denied on account of certain benefits received by the family of the deceased employee under various welfare schemes/investments that had been made by the respondent. Once the respondent bank has taken a specific decision that a claim under the policy cannot be denied on the basis of financial benefits received under various welfare schemes, I find no reason as to why the claim of the petitioner be denied only on the said score. The prayer made by the petitioner that her case ought to be considered by the competent authority/committee constituted by the respondent bank on the objective criteria that has been framed deserves to be accepted.

11 The impugned order dated 03.06.2021 rejecting the prayer for compassionate appointment is accordingly set aside. The respondents are directed to consider the claim as per the criteria approved and then to objectively decide whether the petitioner is entitled to the benefit or not.

12 Now adverting to the argument as to whether the petitioner is entitled to the compensation as notified by the respondent bank in relation to the death of employees during Covid 19 Pandemic. I do not find that the stand of the respondents in denying the said compensation on account of absence of post mortem report is well justified. The death summary of the petitioner which is placed on record as Annexure P-3 issued by the Medanta Hospital clearly shows that the death was on account of post covid pneumonia. Thus, it is a death directly relatable to Covid 19 pandemic. The non-conduct of a post mortem (while the same were not being held at all during the said period) cannot be cited as a basis under such circumstances, for denying the said compensation.

13 Accordingly, the present writ petition is disposed of as partly allowed at this stage. The impugned order dated 03.06.2021 (Annexure P-6) and order dated 06.07.2021 (Annexure P-14) declining the benefit of compassionate appointment and ex gratia compensation are set aside. The respondents are directed to consider the claim of the petitioner for grant of compassionate appointment/ex gratia compensation in terms of their own policy including Clause 19 (7) of the Scheme for compassionate appointment or payment of lumpsum ex-gratia amount in lieu of compassionate appointment. The respondents are also directed to release the financial benefits admissible to the petitioner on account of death of her husband due to Covid – 19 pandemic.

14 Let the aforesaid directions be complied with by the respondents in a time bound manner and preferably within a period of 04 months of the receipt of a certified copy of this order.

March 01, 2025. **(VINOD S. BHARDWAJ)**
raj arora **JUDGE**

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