

HIGH COURT OF MADHYA PRADESH**WP No.988/2018**

Vikash Gore Vs. Chairman, Bank of India & Ors.

Indore, Dated: 12.11.2018

Shri Amit Raj, learned counsel for the petitioner.

Shri D.S.Panwar, learned counsel for respondents.

Heard finally with consent.

By this writ petition the petitioner has challenged the order dated 13/4/2015 whereby his application for compassionate appointment has been rejected.

The case of the petitioner is that his father late Shri Manoharlal was an employee of the respondent bank and had died in harness on 6/8/2005. The petitioner's mother had filed an application for compassionate appointment and the said application was rejected by order dated 19/11/2005 stating that as per the prevailing policy circular dated 16/11/2005, there was no provision for compassionate appointment. Thereafter the new scheme of compassionate appointment was floated on 5/8/2014, therefore, the petitioner filed an application for compassionate appointment which has been rejected by the impugned order.

Having heard the learned counsel for parties and on perusal of the record, it is noticed that the scheme of compassionate appointment dated 25/9/2014 has come into operation with effect from 5/8/2014. The opening sentence of the scheme dated 25/9/2014 itself mentions that:

“The Scheme covers all cases where death of the employee occurs on or after 5/8/2014”.

Undisputedly the father of the petitioner had died on 6/8/2005, therefore, the case of the petitioner is not covered by the Scheme dated 25/9/2014. Hence, no error has been committed by the respondents in passing the impugned order dated 13/4/2015 and rejecting the petitioner's application on the ground that Scheme of 2014 is not attracted in the petitioner's case.

The matter does not end here because the counsel for petitioner has also raised an issue that as per the prevailing scheme in the year 2005 the petitioner was entitled for the ex-gratia payment. The circular dated 15/1/2005 which was in force on the date of death of the petitioner's father has been filed by the respondents as Annexure R/1. The said circular reveals that the ex-gratia amount is payable in-lieu of compassionate appointment in case of death of the employee in harness.

The record reflects that though the respondents had rejected the application for compassionate appointment made by the mother of the petitioner vide order dated 19/11/2005 on the ground that there was no provision for grant of compassionate appointment in the prevailing scheme, but while rejecting the said application the respondents have not considered the entitlement of the members of the deceased family to receive the ex-gratia payment in terms of the policy circular dated 15/1/2005.

Rajasthan High Court in the matter of **Satya Narain Gurjar Vs. Central Bank of India through its Chief General Manager** vide order dated 3rd February, 2007 passed in SB Civil Writ Petition No.9149/2007 in a case where the application for compassionate appointment was made by the

family of the deceased employee without knowing about the change in scheme and introduction of new scheme about ex-gratia payment, has held that the employer was under a legal obligation to grant whatever benefits which were accruing to the members of the family of the deceased employee out of the scheme which was prevailing.

In view of the aforesaid, learned counsel for respondents has fairly submitted that if the petitioner files an appropriate representation claiming the ex-gratia payment in terms of the policy circular dated 15/1/2005, then the same will be duly considered by the competent authority in accordance with law within a time bound period.

Having regard to the said factual and legal position, the present writ petition is disposed of giving liberty to the petitioner to file the appropriate representation before the competent authority seeking the ex-gratia payment and if such a representation is filed by the petitioner, the same will be considered and decided by the competent authority in accordance with law keeping in view the provisions of circular dated 15/1/2005 as expeditiously as possible preferably within a period of three months from the date of receipt of representation.

c.c as per rules.

(Prakash Shrivastava)

Judge

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