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**IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR**

**BEFORE  
HON'BLE SHRI JUSTICE VIVEK AGARWAL**

**ON THE 5<sup>th</sup> OF JANUARY, 2024**

**WRIT PETITION No. 6864 of 2018**

**BETWEEN:-**

**SUYASH SINGH S/O LATE SHRI INDRAPAL SINGH  
TOMAR, AGED ABOUT 34 YEARS, H.NO.709 RITURAJ  
BHAWAN KRISHNA NAGAR TEH. RAGHURAJ NAGAR  
SATNA (MADHYA PRADESH)**

**.....PETITIONER**

***(BY SHRI ANUP SINGH - ADVOCATE)***

**AND**

- 1. THE MADHYANCHAL GRAMIN BANK THR. ITS  
CHAIRMAN HEAD OFFICE PODDAR COLONY TILI  
ROAD SAGAR (MADHYA PRADESH)**
- 2. GENERAL MANAGER MADHYANCHAL GRAMIN  
BANK HEAD OFFICE PODDAR COLONY TILI ROAD  
SAGAR (MADHYA PRADESH)**
- 3. MADHYANCHAL GRAMIN BANK REGIONAL  
MANAGER HEAD OFFICE REWA ROAD SATNA  
(MADHYA PRADESH)**

**.....RESPONDENTS**

***(BY SHRI ASHISH SHROTI - ADVOCATE )***

.....  
*This petition coming on for final hearing this day, the court passed the  
following:*

**ORDER**

This petition is filed by the petitioner being aggrieved of order dated 03.05.2017 passed by the respondent No.3/Bank, rejecting petitioner's claim for grant of compassionate appointment. .

- 2. Petitioner's contention is that petitioner's father Shri Indrapal Singh**

Tomar was given appointment in the respondent/Bank on 7.01.1981. He died in harness on 12.01.2017. Petitioner had applied for compassionate appointment that has been rejected vide impugned order dated 03.05.2017.

3. Shri Anup Singh, learned counsel for the petitioner submits that as per the provisions contained in Annexure P-6, scheme for compassionate appointment was applicable for appointment in Public Sector Banks and therefore, reading clause 1.1 of the said Annexure P-6 at internal page 25, it is submitted that the dependent/family member of a permanent employee of a public sector bank (PSB) was entitled for grant of compassionate appointment.

4. Thereafter, petitioner has placed reliance on the Bank's Circular dated 06.09.2019 (Annexure P-8) to point out that Bank had extended the benefit of grant of compassionate appointment, para-8 of which is read as under:

“8. आवेदन पर विचार करने के लिए समय सीमा –

8.1) अनुकंपा नियुक्ति के लिए आवेदन पर कर्मचारी की मृत्यु/चिकित्सा के आधार पर सेवानिवृत्ति की दिनांक से 05 वर्ष की अवधि तक परिवार के आश्रित सदस्य द्वारा प्रस्तुत किया जाना चाहिए। प्राप्त आवेदनों पर वरीयता के आधार पर निर्णय लिया जावेगा।

8.2) ऐसा कोई अनुकंपा नियुक्ति हतु आवेदन जिसमें कर्मचारी की मृत्यु/चिकित्सा आधार पर सेवानिवृत्ति को 05 वर्ष से अधिक समय व्यतीत हो चुका है, उक्त आवेदन पर भी सहानुभूतिपूर्ण तरीके से विचार किया जा सकता है। ऐसे मामलों में परिवार की वास्तविक आर्थिक स्थिति, निर्वाह के साधन इत्यादि पर विस्तृत जांच करने के पश्चात अनुकंपा नियुक्ति पर विचार किया जावेगा। ऐसे मामलों में निर्णय बोर्ड स्तर पर लिया जावेगा।

टीप :- अनुकंपा नियुक्ति की योजना बैंक के निदेशक मण्डल के अनुमोदन दिनांक 27 मार्च 2019 से बैंक में प्रभावी है, दिनांक 27 मार्च 2019 के पूर्व मृतक /चिकित्सकीय आधार पर सेवानिवृत्त कर्मचारियों के प्रकरणों में बैंक के परिपत्र क्र0 : कार्मिक/12-13/04 दिनांक 10.11.2012 के माध्यम जारी निर्देश प्रभावी होंगे।”

5. Placing reliance on the judgment of Allahabad High Court in the case

of *Manjeet Kaur Vs. State of U.P. & Ors. decided in Writ A No. 2615 of 2023*, it is submitted that Allahabad High Court has held that since the application was made within 05 years of the death, Circular of the year, 2019 will be applicable. Similarly, reliance is placed on the judgment of High Court at Calcutta in the case of *Bhargab Kumar Vs. Union of India & Ors. in WPA No. 9753 of 2023* decided on *16.05.2023*, where ratio of law is similar to that of the Allahabad High Court. Reliance is also placed on the Government of India Ministry of Finance Circular dated 14th September, 2023 which conveyed the approval of the Government for implementation of the revised model scheme for appointment on compassionate ground in RRB as per the scheme in Public Sector Banks, in terms of NABARD letter dated 09.01.2019.

6. Shri Ashish Shrotri learned counsel for respondent, in his turn submits that Annexure P-8 has no retrospective application. Note below Clause 8.2 makes it clear that persons who died before 27.03.2019 will not be governed by the said policy. It is otherwise settled law that policy on the date of the death of serving employee is to be taken into consideration.

7. After hearing, learned counsel for the parties and going through the record, it is evident that there is no retrospective application of the policy contained in Annexure P-8. That policy is applicable from 27.03.2019.

8. Allahabad High Court in the case of Smt. Manjeet Kaur has failed to take into consideration this aspect that note below Clause 8.2 specifically provides for non-application of the policy in the matters of death, taking place prior to 27.03.2019. Therefore, for the failure of the Allahabad High Court to take into consideration, note, below clause 8.2, of the policy which has been reproduced above, this judgment having been passed without considering the

complete context and the complete clause is an obiter and cannot be treated as a binding precedent.

9. As far as the decision of Calcutta High Court is concerned, I have no hesitation to hold that coverage of the circular of Annexure P-8 could not have been extended retrospectively to last five years. When there is a specific note below Clause 8.2, without considering that note, violence could not have been done to the spirit of the circular unless that circular is declared to be *ultravires* or arbitrary or illegal, therefore, the judgment of High Court of Calcutta in the case of *Bhargab Kumar Vs. Union of India (supra)* too having failed to take into consideration the true spirit of the circular and the laid down by the Supreme Court in the case of *State of Madhya Pradesh Vs. Ashish Awasthi (2022)2 SCC 157*, where it is held that for appointment on compassionate ground policy prevalent at the time of death of the deceased employee only is required to be considered and not subsequent policy. Thus, it is held that in the matter of compassionate appointment policy/norms are not having retrospective applicability. The scheme which is invoked at the time of the death is to be considered while considering the case of an employee for compassionate appointment. I am of the opinion that even that judgment has no application too in the facts of the present case.

10. At this stage, Shri Anup Singh has hurled across a copy of order passe by a Co-ordinate Bench on 20.06.2023 in *W.P. No. 24881 of 2021 (Prahlad Sondhiya Vs. Madhyanchal Gramin Bank & Ors.)*.

11. Fact of that case are that application for grant of compassionate appointment was rejected on the ground that his father had expired after the age of 55 years and as per policy dated 06.09.2019 petitioner is not entitled for appointment on compassionate ground. In that case, consideration was in

regard to consideration of a case for compassionate appointment in terms of two different clauses being noted in Clause 1.1 of the Scheme contained in Annexure P-6.

12. Clause (a) of para 1.1 which deals with coverage, reads as under:

**"1. COVERAGE:**

*1.1 To a dependent family member of permanent employee of a Public Sector Bank (PSB) who -*

*a) dies while in service (including death by suicide).*

*b) is retired on medical grounds due to incapacitation before reaching the age of 55 years. (incapacitation is to be certified by a duly appointed Medical Board in a Government Medical College/Government District Head Quarters, Hospitals/Panel of Doctors nominated by the Bank for the purpose).*

*1.2 For the purpose of the Scheme, "employee" would mean an include only a confirmed regular employee who was serving full time or part-time on scale wages, at the time of death/retirement on medical grounds, before reaching age of 55 years and does not include any one engaged on contract/temporary/casual or any person who is paid on commission basis"*

13. It is evident from Clause - I that there are two exigencies which entitled of dependent family member of permanent employee of a public sector bank, to grant of compassionate appointment namely (i) who dies while in service including death by suicide and another is that (ii) retired on medical grounds due to incapacitation before reaching the age of 55 years. These two clauses are disjoint i.e. in case of either of the exigencies compassionate appointment could have been extended and this is what the co-ordinate Bench has held that in case an employee even after attaining the age of 55 years, dies, while in service, his claim for compassionate appointment cannot be rejected on the ground that deceased employee had crossed 55 years of age i.e. the rider of

55 years of age which is meant for incapacitation of medical ground will not be applicable in case of death.

14. Therefore, that judgment being not applicable to the facts of this case and no where it is held by Co-ordinate Bench, that the policy Annexure P-8 had retrospective application, even this judgment is of no assistant to the petitioner.

15. Therefore, in the light of the law laid down by Hon'ble Supreme Court in the case of *State of Madhya Pradesh Vs. Ashish Awasthi (supra)*, which provides that the policy for compassionate appointment will be applicable which is invoked on the date of the death of the employee on account of which compassionate appointment is sought, this Court has no hesitation to hold that Policy of 2019 has no application and the Allahabad High Court as well as Calcutta High Court has failed to take this aspect into consideration, therefore, those judgments are not a binding precedent for this High Court.

16. Petition fails and is dismissed.

Amitabh

(VIVEK AGARWAL)  
JUDGE