



W.P. No26954 of 20243

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

BEFORE

HON'BLE SHRI JUSTICE VINAY SARAF

ON THE 27th OF NOVEMBER, 2023

WRIT PETITION No. 26954 of 2023

SADHANA SINGH

Versus

THE INDIAN BANK AND OTHERS

Appearance:

Ms. Wariza Ghildiyal – Advocate for petitioner.

Ms. Akashmi Trivedi – Advocate for the respondents.

ORDER

1. Petitioner has approached this Court seeking quashment of order dated 19.09.2023 issued by Assistant General Manager (HRM) of Indian Bank, whereby the application submitted by the petitioner for compassionate appointment was rejected.
2. The short facts of the case are that husband of the petitioner Late Shri Neeraj Kumar appeared in the recruitment process for the post of “CRP” Clerk – VIII organized by Allahabad Bank (now merged into Indian Bank) and declared successful. He was appointed in the Bank by appointment order dated 05.07.2019 on the post of Single Window Operator - ‘A’ in clerical cadre.



W.P. No26954 of 20243

3. As per appointment order initially his appointment was on probation for a period of six months and subject to proving the suitability for bank service, the same was confirmable to the permanent establishment of the bank. Mr. Neeraj Kumar was nominated for Internal Training Programme scheduled to be held from 29.07.2019 to 09.08.2019 at Staff College Lucknow. When he was going to join Internal Training Programme on his way to Lucknow, he expired at Lucknow Station due to cardiac arrest on 29.07.2019.
4. After the sudden demise of the sole bread earner for the family of the petitioner consisting of the petitioner, two minor daughters, old aged father in law and mother in law, financial crisis crept in the family and therefore, the petitioner submitted an application for grant of compassionate appointment to the authorities of Allahabad Bank as per the applicable scheme for compassionate appointment in Allahabad Bank issued by Circular Number 13486/PA/2015-16/26 dated 03.08.2015. However, the application for appointment was declined by the bank by the impugned Communication dated 19.09.2023, whereby the petitioner was informed that 'The request for compassionate appointment has not been considered favourably by the competent authority as the deceased staff member was not the confirmed employee as on the date of death and moreover the family is not indigent.'
5. The decision of the bank is under challenge in the present petition.



6. Ms. Wariza Ghildiyal, learned counsel appearing on behalf of the petitioner submits that as per Clause 1.1 of the scheme dependent family member of permanent employee of the Allahabad Bank is entitled for compassionate appointment, however, Clause 1.2 provides that for the purpose of the scheme employee would mean and include only a confirmed employee. She further submits that frequently asked questions ‘FAQs’ on compassionate appointment the bank attached to the scheme as Annexure- II consists question No.11 which was answered as if the deceased employee was appointed on regular basis against permanent vacancy, the scheme may be extended to his/her dependant family member.
7. The relevant clauses of the scheme reads as under ;

1. COVERAGE

1.1. To a dependent family member of permanent employee of Allahabad Bank who -

a) dies while in service (including death by suicide) on or after 05.08.2014.

b) is retired on medical grounds due to incapacitation before reaching the age of 55 years on or after 05.08.2014. (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).

Note: Where the incapacitation before reaching the age of 55 years/death of the ex-employee occurred prior to 05.08.2014, such cases would be considered only as per the ‘Scheme for payment of ex-gratia amount in lieu of appointment on compassionate grounds and appointment of dependents of deceased employees



W.P. No26954 of 20243

on compassionate grounds in exceptional cases’ as circularised vide Instruction Circular No.10203/PA/2008-09/35 dated 17.10.2008 and not under this new scheme.

1.2 For the purpose of the Scheme, “employee” would mean and include only a confirmed regular employee who was serving full time or part-time on scale wages, (including those appointed on regular basis against permanent vacancy) at the time of death/retirement on medical grounds before reaching the age of 55 years and does not include any one engaged on contract/temporary/casual or any person who is paid on commission basis.

FAQs:-

11	Clause 1.1. says that scheme is application “to a dependent family member of permanent employee, whereas Clause 1.2 says that “employee would mean and include only a confirmed regular employee. These two clauses are not in symmetry.	A: If the deceased employee was appointed on regular basis against permanent vacancy, the Scheme may be extended to his/her dependent family members.
----	--	---

8. It is further submitted by the learned counsel for the petitioner that husband of the petitioner was appointed through recruitment process and his appointment was on regular basis against permanent vacancy and therefore, as per FAQ No.11, the benefit of the scheme ought to have been extended to the petitioner,



though the services of the husband of the petitioner was not confirmed.

9. It is further submitted on behalf of the petitioner that the first reason assigned in the impugned communication that as the deceased staff member was not confirmed employee as on the date of death, request for compassionate appointment is not acceptable is arbitrary, illegal, and contrary to the scheme and FAQ No. 11.
10. So far as the second ground assigned in the letter that the family is not indigent, it is submitted by the learned counsel for the petitioner that in the family there as many as 5 members including the petitioner, 2 minor daughters and old aged parents in law. The only source of income is the family pension which they are getting from defense department, therefore, it cannot be said that the family is not indigent. She further submits that mere receiving the family pension is not sufficient ground to deny the benefit of the compassionate appointment as the denial of compassionate appointment amounts to denial of social economic justice. She relied on the judgment delivered by Apex Court in the matter of *Balbir Kaur and another vs. Steel Authority of India Ltd. 2000(6) SCC 493 and Canera Bank and Another vs. M. Mahesh Kumar 2015 (7) SCC 412* and submits that grant of family pension or payment of terminal benefits cannot be treated as a substitute for providing employment assistance. Learned counsel for the



W.P. No26954 of 20243

petitioner prayed for quashment of the impugned communication dated 19.09.2023.

11. *Per contra*, Ms. Akashmi Trivedi appearing on behalf of the respondent/Bank submits that the husband of the petitioner was appointed on probation under Ex Service Men Category vide appointment order dated 05.07.2019 and as per the terms of the appointment, it was required to be confirmed in service after completing six months service. However, unfortunately, he expired within 15 days from the date of joining the services, and therefore, petitioner is not entitled for the compassionate appointment. She further submits that Supreme Court has held in the matter of *State of Himanchal Pradesh vs. Sashi Kumar 2019 (3) SCC 653* that the appointment to any public post in the service of the State has to be made on the basis of principles in accordance with Article 14 and 16 of the Constitution and compassionate appointment is an exemption to the general Rule. She further submits that the dependent of deceased Government employee is made eligible by virtue of the policy for compassionate appointment and he must fulfill the norms laid down by the policy. It is further submitted on behalf of the respondent that the petitioner is drawing defense family pension of Rs.38,961/- and the financial condition of the family is stable and the family is not indigent and therefore no illegality committed by the Bank in declining to grant compassionate appointment to the petitioner.



12. Heard the counsels for the parties and perused the record.
13. The appointment of Mr. Neeraj Kumar on the post of Single Window Operator –‘A in Clerical cadre is not in dispute. He was appointed through Common Recruitment Process conducted by IBPS, Mumbai for recruitment of Single Window Operator ‘A’ in clerical cadre in Public Sector Banks. It is most unfortunate that the husband of the petitioner joined the services on 15.07.2019 and died in harness on 29.07.2019 due to cardiac arrest at Lucknow Railway Station, when he was going to attend training programme.
14. Learned counsel for the petitioner has pointed out towards Question No.11 of FAQs, which has been answered that if deceased employee was appointed on regular basis against permanent vacancy, the benefit of the scheme may be extended to his dependant family members. The husband of the petitioner was appointed on regular basis through recruitment process against the permanent vacancy, therefore as per the answer of the FAQ No.11, the petitioner is entitled for the compassionate appointment as per the scheme, however, the benefit of the same has not been extended to the petitioner.
15. The judgment relied by learned counsel appearing for the respondent delivered in the matter of *Sashi Kumar (supra)* that compassionate appointment is an exceptional procedure for



W.P. No26954 of 20243

appointment to any public post in service of State, however compassionate appointment may be made in compliance with the policy, therefore, the same is not helpful to the respondent at this stage. The Petitioner has relied on the judgment 'of ***Balbir Kaur (Supra) and M.Mahesh Kumar (Supra)*** wherein it is also held that claim of compassionate appointment under a scheme of particular year should be decided as per the provisions of scheme and mere receipt of family pension and terminal benefits are not sufficient to deny the benefit of the scheme.

16. In the present matter, in the impugned Communication dated 19.09.2023, it is mentioned that the family is not indigent but nothing has been explained in detail that how the family is not indigent. In the reply submitted before the Court, the respondent has pleaded that as the petitioner is drawing defense family pension of Rs.38,961/-, she is not indigent person. At the time of considering the fact that family is indigent or not all the circumstances should be considered. It appears that except the family pension there is no other source of income available to the family and family consists of five persons therefore, before rejecting the prayer for compassionate appointment on the ground that family is not indigent, the respondent ought to have considered the financial status of the family in detail, which they have not done.



17. In view of the above discussion, the communication dated 19.09.2023 is hereby quashed. The matter is remanded back to respondent No.1/Indian Bank for reconsideration of the application submitted by the petitioner for compassionate appointment in view of the answer to FAQ No.11 of Annexure - II of circular dated 03.08.2015 as well as financial condition of the family in detail. Let the re-examination be completed within a period of 3 months from the date of receipt of certified copy of this order and if the petitioner is found eligible for compassionate appointment the same be issued within a further period of 3 months.
18. With the aforesaid present petition is allowed in part. No order as to costs.

(VINAY SARAF)

JUDGE



10

W.P. No26954 of 20243