

(2008) 09 JH CK 0033
In the Jharkhand High Court

Chandan Kumar

APPELLANT

Vs

Branch Manager, State Bank of India and Others

RESPONDENT

Date of Decision : 29-09-2008

Acts Referred:

Citation : (2009) 1 JCR 182

Hon'ble Judges : Dabbiru Ganeshrao Patnaik, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

D.G.R. Patnaik, J.—Prayer in this writ application is for issuance of a direction upon the respondents to grant compassionate appointment to the petitioner, on the ground that his father, who was earlier employed under the respondent Bank, had died-in-harness.

2. The petitioner's case is that his father was employed in the respondent Bank at its Bazar Branch, Koderma as Record Keeper-cum-Cashier and he died-in-harness on 14.6.2002. Upon his death, the petitioner submitted his application praying for his compassionate appointment. The petitioner's mother had also joined in the prayer stating and declaring that the petitioner being the eldest son possesses all requisite qualifications including the qualification of an I.Sc. The petitioner's prayer was rejected by the respondent vide letter (Annexure-2) which communicated that since death-cum-retiral dues Of the petitioner's father has already been paid and the economic condition of the petitioner's family, after the death of the deceased employee, was not unsound, the prayer for compassionate appointment cannot be granted.

3. The grievance of the petitioner is that aforesaid decision of the respondent refusing to grant compassionate appointment to him, is arbitrary and discriminatory since the dependants of the other employee of the respondent Bank namely Nicholas Lakra, who was also Assistant-cum-cashier in the bank and had died-in-harness were extended the benefit of compassionate

appointment.

4. The contention of the petitioner is that the respondents have failed to consider that the deceased employee had left behind large number of dependants including his widow, sons and daughters and there is no other earning member in the family to support the family needs after the demise of the deceased employee.

5. A counter-affidavit has been filed on behalf of the respondents, denying and disputing the claim of the petitioner. While admitting the fact that the petitioner's father who was employed at Koderma Bazar Branch of the respondent Bank, had died-in-harness on 14.6.2002, the stand taken by the respondents is that the scheme of the Bank for grant of compassionate appointment has since been abolished and has been replaced by the SBI Scheme for payment of ex-gratia lump sum amount vide Bank's Circular NMO. CIRDO/PER/40 dated 16.8.2005. It is further stated that the widow of the deceased employee had received payment of ex-gratia lump sum amount and therefore, she or her son cannot claim compassionate appointment. It is further stated that the claim for compassionate appointment cannot be demanded as a matter of right. Compassionate appointment is meant only to enable the penurious family of the deceased employee to tide over the sudden financial crisis on the death of the sole bread earner of the family. It is stated that in the petitioner's case, inquiry was conducted and it was found that the family of the deceased employee had sufficient means of earning. It is found that after paying off all the liabilities, the family of the petitioner had possessed a cash balance of Rs. 2.8 lakh and further amount of Rs. 5,435/- per month as given to the family by way of family pension. It was further revealed in the Inquiry that since the total monthly income derived by the family was more than 7,070/- per month and the deceased during his life time, was drawing Rs. 5,431/- per month as salary, the family cannot be considered to be in penurious condition and therefore, they are not entitled to claim for any compassionate appointment.

6. From the stand taken by the respondents, it appears that the petitioner's claim for compassionate appointment has been rejected on two grounds. The first being that the financial condition of the family of the deceased employee was not in any manner in financial crisis since the family of the deceased had cash balance of Rs. 2.8 lakhs and was earning monthly income by way of family pension and interest on the cash balance to the extent of Rs. 7,070/- per month, whereas the earning of the deceased was Rs. 5,431/- per month. The second ground is that the earlier scheme for grant of compassionate appointment has been abolished and in its place, scheme for payment of ex-gratia cash lump sum amount in lieu of compassionate appointment has been introduced. The widow of the deceased employee had received ex-gratia payment. The above stand taken by the respondent has not been denied by the petitioner.

7. As regards the ground that the dependants of an ex-employee Nicolas Lakra was granted compassionate appointment, it has been explained by the

respondents that said employment was given on 22.2.2001 when the earlier scheme for compassionate appointment was in force. Further more, it was found in inquiry that after adjusting all the liabilities, the family of late Nicolas Lakra was possessed of Rs. 1,11,661.48 paise as cash balance and the total movable and immovable properties possessed by the family was Rs. 80,000/-and thus, it was inferred that the family of Late Nicolas Lakra was not having sufficient means to support themselves and was in a penurious condition. It is stated that as compared to the family of Late Nicolas Lakra, the family of the petitioner was possessed of sufficient means and was not in penurious condition.

8. It is by now well settled by catena of judgment of the Supreme Court that compassionate appointment cannot be claimed as a matter of right. It is granted by the employer only to meet the immediate financial necessity when the dependant family of the deceased employee is found to be in penurious condition having no financial resources. It further appears that the petitioner's family have received payment of ex-gratia lump sum amount, on the basis of which, it was able to tide over the immediate financial crisis if any, on the sudden demise of the deceased employee.

9. Furthermore, the family of the petitioner is also benefited by the grant of family pension and the total earning of the family is much higher than the salary earned by the deceased employee during his life time.

10. In the light of the above, I do not find that the petitioner has made out any genuine and reasonable grounds in support of his claim for compassionate appointment. There being no merit in this application, which is accordingly dismissed.