

(2011) 08 AHC CK 0015

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 49705 of 2002

Chandra Prakash

APPELLANT

Vs

State Bank of India and Another

RESPONDENT

Date of Decision : 17-08-2011

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2012) 5 ADJ 685 : (2012) 134 FLR 886

Hon'ble Judges : Rakesh Tiwari, J

Bench : Single Bench

Advocate : Madan G. Sharma, for the Appellant; Vipin Sinha and C.S.C., for the Respondent

Final Decision : Dismissed

Judgement

Rakesh Tiwari, J.—Heard counsel for the parties and perused the record. Late Keshari Mardan Singh, father of the petitioner was employed as cash assistant (cash and accounts) in Amraudha branch of respondent State Bank of India, Kanpur. He expired on 24.10.1999 in harness while he was on medical leave. The petitioner appears to have submitted an application for appointment on compassionate ground on the post of messenger. The bank enquired about indigent circumstances of the family by means of a letter dated 21.11.2000. In response to the aforesaid letter, the petitioner submitted details of the family members stating that the family was under indigent circumstances and that if opportunity is given to him to serve the bank, he will look after his mother and the family. Details of the family properties were also submitted by the petitioner through his letter dated 8.7.2001. He was then informed by the Assistant General Manager, State Bank of India, Zonal office, Range I, Kanpur through letter dated 21.8.2002 that after considering his case for appointment on compassionate ground and noting the fact that his father (since deceased), had committed misconduct while serving as Assistant (cash and account), the competent authority at Corporate Centre, Mumbai has rejected the proposal for

compassionate appointment to the petitioner.

2. On receipt of the aforesaid letter dated 21.8.2002, the petitioner tried to know about the misconduct alleged to have been committed by his father as well as gravity of the crime alleged against him while he was in service. He got a copy of the charge-sheet said to have been served on his father in the year 1988 for wilful negligence in performance of his duties. It is alleged in the charge-sheet that on 13.7.1988, father of the petitioner had reported for duty at about 1.30 p.m. in a drunken state while he was holding temporary charge of cash office and had left the duty at 3.00 p.m. without locking the strongroom leaving it wide open. It is also averred that in the enquiry report submitted by the disciplinary authority, father of the petitioner was awarded major punishment of stoppage of one increment with cumulative effect vide order dated 14.12.1990 passed by the disciplinary authority i.e. Regional Manager, Region I of the bank. It is the order of rejection of his claim dated 21.8.2002 for compassionate appointment which is being challenged by the petitioner on the ground that alleged misconduct of his deceased father was in fact not a misconduct rather was a case of negligence for a single day i.e. 13.7.1988, regarding which he had already been awarded punishment of stoppage of one increment in the year 1990.

3. It is stated that after the punishment was imposed, his father continued in service till his death on 24.10.1999 without any cause of grievance to the bank. It is lastly submitted that refusal of claim for compassionate appointment to the dependent of the deceased employee who had committed some misconduct during his service period, is not provided under the Rules of the Bank, hence the impugned order dated 21.8.2002 is illegal, arbitrary and unjust.

4. In the aforesaid circumstances, the petitioner has prayed for quashing of the aforesaid order dated 21.8.2002 appended as Annexure 7 to the writ petition and further a writ in the nature of mandamus commanding the respondents to consider appointment of the petitioner on compassionate ground on the post of messenger in pursuance of application submitted by him or any other/further order as this Court may deem fit and proper in the facts and circumstances of the case.

5. Per contra, counsel for the respondent bank has urged before the Court that appointment on compassionate ground is advised under Bank scheme in Central Office Letter No. ADM/4678, dated 7.2.1983. It is stated that compassionate appointment is permitted as a gesture of goodwill and compassion to the dependants of the deceased employee who had served the institution faithfully and whose family is living under cold penury or in indigent circumstances.

6. He further submits that Government vide Letter No. F. No. 18/11/88-IR, dated 9.7.1991, has advised that all cases of compassionate appointment where the employees were involved in disciplinary matters, would require prior approval of the Government. It is in pursuance of this letter that the bank had forwarded application of the petitioner to the Government for consideration of his case for

employment on compassionate ground. It is stated that irrespective of the fact that whether the employee has been inflicted minor or major punishment, the matter has to be referred to the Government wherever there is question of compassionate appointment to the dependant of deceased employee in such circumstances and such appointment can only be considered after clearance from the Government. He has also referred the method of appointment in such cases which has been quoted in paragraph No. 4 of the counter-affidavit, thus :

5. Method of Appointment.

(iii). In cases where disciplinary action had been taken against the employee or disciplinary proceedings were pending/contemplated against him/her, appointment of a dependant on compassionate grounds may be considered only after obtaining prior Government concurrence.

7. In this regard Government Letter dated 19.2.2002 appended as Annexure C.A.-4 to the counter-affidavit is referred, by which the Government has delegated its power to the bank to decide all such cases of compassionate appointment by the competent authority at the bank level wherever question of misconduct by employee is involved. Accordingly, scheme of the bank was amended in May 2002 and Executive committee of the Central Board was empowered to take decision in the matter of compassionate appointment where the deceased employee had been involved in misconduct.

8. Counsel for the respondent submits that in the aforesaid backdrop, the application of the petitioner for appointment on compassionate ground was referred to the Government on 3.12.2001 as deceased Keshari Mardan Singh, father of the petitioner, had been awarded punishment of stoppage of one increment with cumulative effect which is a grave punishment in view of paragraph No. 521 of the Shastri Award as required in terms of the Rules prevalent at the relevant time. Subsequently, in view of Government letter dated 19.2.2002, the matter was considered by the Executive Committee of the Central Board on 13.6.2002. The proposal for compassionate appointment to the dependant of deceased Keshari Mardan Singh, father of the petitioner, was re examined and as it was found that there was no justification for granting appointment in view of the misconduct of the deceased employee, the petitioner's application for compassionate appointment was therefore rejected.

9. Submission of the counsel for respondent is that admittedly the father of the petitioner was employee of the bank, had been charge-sheeted and was awarded major penalty since he had in drunken state reported for duty at about 1.30 p.m. and had left strong room of the bank insecure by leaving his duties at about 3 p.m., hence matter of compassionate appointment to the petitioner who happens to be son of the deceased employee, was duly considered by the competent authority of the bank and rejected. The rejection of application of the petitioner was also informed to him accordingly. It is urged that request of the petitioner for compassionate appointment has been declined as per Government guidelines

and provisions in force at the relevant time; that compassionate appointment is not a largesse but is an offer to the dependant of the deceased employee who had died in harness and whose family is living in indigent circumstances and who has faithfully served the bank without any damage to the bank subject to eligibility in accordance with law.

10. After considering the facts and circumstances of the case and on perusal of the record, it appears that late Keshari Mardan Singh, father of the petitioner had expired on 24.10.1999; that the bank appears to have followed the guidelines of the Government and has also considered the petitioner's case sympathetically in the light of rules and the scheme prevalent at the relevant time and they appears to have rightly rejected application of the petitioner for compassionate appointment as his father had not served the bank faithfully having been punished for major misconduct. For all the reasons stated above, there appears to be no illegality in the order impugned, hence the Court is not inclined to interfere in its extra ordinary powers under Article 226 of the Constitution of India. The petition is accordingly dismissed. No order as to costs.