

**(2003) 11 JH CK 0010**  
**In the Jharkhand High Court**  
**Case No : Writ Petition (S) No. 1954 of 2003**

Geeta Devi and Another

APPELLANT

Vs

Allahabad Bank and Others

RESPONDENT

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**Date of Decision :** 25-11-2003

**Acts Referred:**

Constitution of India, 1950 — Article 226

**Citation :** (2004) 1 JCR 170

**Hon'ble Judges :** M.Y. Eqbal, J

**Bench :** Single Bench

**Advocate :** Munnalal Yadav, for the Appellant; Gautam Rakesh, for the Respondent

**Final Decision :** Dismissed

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## Judgement

M.Y. Eqbal, J.—The petitioners have challenged the order passed by the respondents which was communicated to them vide letters dated 9.5.2002 and 20.5.2002 whereby the competent authority has expressed its inability to appoint petitioner No. 2 on compassionate ground for the reasons stated in the said letters.

2. Petitioners' case is that the deceased husband of petitioner No. 1 and father of petitioner No. 2 was serving in the respondent-Bank as Armed Guard. He worked from 1996 to 1998 and, thereafter died in harness in 1998. The petitioners, thereafter, made an application for appointment of petitioner No. 2 on compassionate ground. The said application was rejected on the ground that the income shown by the bereaved family was sufficient to maintain the petitioners.

3. The respondents, in their counter affidavit, have stated that as per the policy and rules of the Bank compassionate appointment is given in cases where it is found that the family of the deceased employee is not in a position to sustain their lives due to sudden demise of the deceased employee. The respondents'

further case is that the deceased husband of petitioner No. 1 was an ex-Army man and after retirement from the Army, he was getting pension. After his death the petitioners are drawing family pension and other reliefs amounting to Rs. 2,526/- per month. It is further stated that the respondent-Bank, on his death has also paid gratuity and provident fund amount to the petitioners and the widow is also getting pension of Rs. 2,896/- from the Bank. It is, therefore, contended that as per the rules of the Bank the petitioner No. 2 is not entitled to get compassionate appointment.

4. Admitted facts which emerge from the affidavits are that the deceased husband of petitioner No. 1 was the ex-service man and after his retirement he joined the Bank as Armed Guard. The deceased was getting pension and after his death the petitioners have been getting family pension from the Government. Petitioners have also been paid retiral benefits and have been getting family pension for the respondent-Bank. It is well settled that the object of compassionate appointment is to give immediate relief to the family of the deceased. Mere death of the employee does not entitle the family to compassionate appointment.

5. As noticed above, as per the rules of the Bank if on the death of the employee the income of the family of the deceased is found sufficient to sustain their lives, hence in such cases, appointment cannot be given on compassionate ground. In the case of Umesh Kumar Nagpal Vs. State of Haryana and Others, the Apex Court has observed as under:

"The whole object of granting compassionate employment is thus to enable the family to tide over the sudden crisis. The object is not to give a member of such family a post much less a post for post held by the deceased. What is further mere death of an employee in harness does not entitle his family to such source of livelihood. The Government or the public authority concerned has to examine the financial condition of the family of the deceased, and it is only if it is satisfied, that but for the provision of employment, the family will not be able to meet the crisis that a job is to be offered to the eligible members of the family."

6. Following the aforesaid decision of the Supreme Court a Bench of this Court in the case of Smt. Aruna Sinha and Anr. v. State of Bank of India and Ors., reported in 2001 (3) JCR 546 held as under :

"As noticed above, the eldest son of the deceased is in the Government service and petitioners have received terminal benefits amounting to Rs. 8,25,482/-. The widow of the deceased will also get Rs. 5,256/- per month as family pension. The deceased as also the widow have their fixed investment. Taking consideration all these facts, the claim of the petitioners for appointment on compassionate ground has been rejected. It is well settled that the object of appointment on compassionate ground is to give immediate relief to the member of the family of the deceased. Mere death of the employee does not entitle his family to compassionate appointment. The authority must consider whether family of the

deceased is unable to meet the financial crisis. In this connection reference may be made to the decision of the Supreme Court in the case of Umesh Kumar Nagpal Vs. State of Haryana and Others, ."

7. In the case of Life Insurance Corporation of India Vs. Mrs. Asha Ramachandra Ambekar and another, the facts of the case was that the family members of the deceased employee sought employment on compassionate ground on the death of the deceased working in Life Insurance Corporation. Under the rules and instructions issued by the Life Insurance Corporation of India there was a provision of compassionate appointment only where none of the members of the family is gainfully employed. Their Lordships holding that the Court has no power to ignore the rules and regulations, observed as follows ;

"The Courts should endeavour to find out whether a particular case in which sympathetic considerations are to be weighed falls within the scope of law. Disregardful of law, however, hard the case may be, it should never be done. In the very ease itself, there are Regulations and Instructions which we have extracted above. The Court below has not even examined whether a case falls within the scope of these statutory provisions. Clause 2 of Sub-clause (iii) of Instructions makes it clear that relaxation could be given only when none of the members of the family is gainfully employed. Clause 4 of the Circular dated 20.1.1987 interdicts such an appointment on compassionate ground. The appellant corporation being a statutory Corporation is bound by the Life Insurance Corporation Act as well as the Statutory Regulations and instructions. They cannot be put aside and compassionate appointment be ordered."

8. Moreover, this Court cannot depart with the policy decision of the Government of the Public Undertakings framing rules for compassionate appointment subject to availability of vacancies on the ground of hardship or on account of sympathetic considerations. In this connection reference may be made to the decision of the Supreme Court in the ease of Hindustan Aeronautics Ltd. Vs. Smt. A. Radhika Thirumalai, and in a decision reported in State of H.P. and Another Vs. Jafli Devi (Smt.), .

9. In the instant case; as noticed above, the rules of the Bank do not provide compassionate appointment when the family members have sufficient means to maintain the family. Departing with the said rule of the Bank this Court cannot issue mandamus directing the respondents to give appointment on compassionate ground.

10. Having regard to the facts and circumstances of the case and the law laid down by the Apex Court I do not find any reason to interfere with the impugned order whereby the application for compassionate appointment has been rejected by the respondents. Hence, no relief can be granted to the petitioners. This writ application is, accordingly, dismissed.