
(2001) 05 JH CK 0013

In the Jharkhand High Court

Case No : Writ Petition (S) No. 4348 of 2001

Prashant Kumar Rai

APPELLANT

Vs

United Bank of India and Others

RESPONDENT

Date of Decision : 16-05-2001

Acts Referred:

Citation : (2001) 05 JH CK 0013

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

Bench : Single Bench

Advocate : R.S.P. Sinha and Anjani Kr. Singh, for the Appellant; Shamim Akhtar, Kaushalendra Prasad and Arvind Kumar Mehta, for the Respondent

Final Decision : Allowed

Judgement

M.Y. Eqbal, J.—Petitioner has prayed for quashing the decision taken by the respondents as contained in letter No. 192/2001 dated 15.2.2001, whereby the respondents refused to give appointment on account of death of his father who died in harness.

2. Petitioner's case is that his father was employed in the respondent-Bank as an Assistant. In 1998, because of "Heart Attack" his father died in harness leaving behind his widow, two unmarried daughters and one son, Prashant Kumar Rai, the petitioner. Petitioner applied for compassionate appointment. Vide letter dated 22.2.99 and 22.1.2000, petitioner was directed to submit all the necessary documents and papers. It was mentioned in the said letter that if documents are not filed then the Bank will presume that the petitioner is not interested for employment in the Bank. Petitioner submitted all the documents and papers in time. However, respondent-Bank refused to give appointment on the ground that as per revised scheme of the Bank, only widow of the deceased employee can request the Bank to give employment under "Died-in-Harness", provided her monthly income from the estate of her deceased family does not exceed rupees three thousand and she fulfills other terms and conditions.

3. A counter-affidavit has been filed by the respondent-Bank, stating inter alia that under the "Died-in-harness" scheme as revised by Circular dated 1.11.2000 the only widow is entitled to claim compassionate appointment provided her monthly income does not exceed to Rs. 5000/-. It is contended that the widow has been drawing a sum of Rs. 4413/- per month as family pension apart from payment of terminal benefits.

4. A copy of the Circular dated 1.11.2000 has been annexed as Annexure-A to the counter-affidavit. By the aforesaid circular, "Dieds-in- Harness" Scheme was revised in 2000. Rule 5 of the said Scheme reads as under:--

"(a) After determining the income of the family of the deceased taking Into consideration of all the factors as stated above. If the income from the estate of the deceased's family does not exceed Rs. 3,000/- per month. In that case, the widow of the deceased will be offered employment in the Bank in appropriate category, subject to availability of vacancy and fulfilment of the criteria as stated in this circular or one-time lumpsum financial assistance of Rs. 1.50 lac without any further claim for employment in the Bank under the scheme.

(b) In case of widow of the deceased employee, the monthly income from whose estate exceeds Rs. 3,000/- per month after taking into account terminal benefits paid/payable on account of deceased employee and other sources of income, shall be paid one-time lumpsum financial assistance of Rs. 1.00 lac and will not be entitled to any claim for employment in the Bank under the Scheme.

(c) In respect of widow of a deceased employee, the monthly Income from whose estate exceeds Rs. 5,000/- per month shall not be entitled to any claim for lumpsum payment or employment in the Bank under the scheme.

The above modifications in the Scheme will come into force with immediate effect."

5. At this stage, I am not going to express any opinion on the validity of the revised scheme issued by the respondent-Bank. Suffice it to say that the father of the petitioner died on 26.11.98 and admittedly in the original scheme, the son of the deceased employee was entitled for compassionate appointment. This was the reason the respondent- Bank vide letter dated 22.2.99 and 22.1.2000 called upon the petitioner to submit all the documents and on submission of all the documents by the petitioner, the application was processed. In that view of the matter, the claim of the petitioner could not have been rejected on the basis of revised scheme, which came into operation in 2001. The decision taken by the respondent-Bank refusing to give employment to the petitioner on the ground of provisions of the revised scheme 2001 is, therefore, absolutely illegal, arbitrary ad unjustified. In my opinion, petitioner is entitled to compassionate appointment on the basis of the scheme which was applicable on the day when petitioner's father died.

6. This writ application is therefore allowed and the impugned decision taken by

the respondent-Bank is set-aside. Respondents are directed to consider the case of the petitioner for compassionate appointment on the basis of scheme prevailing at the time of death of father of the petitioner and pass appropriate order in accordance with law, within a period of 30 days from the date of receipt/production of copy of this order.