
(2014) 01 AHC CK 0083
In the Allahabad High Court
Case No : Special Appeal No. 9 of 2014

Radhey Shyam Yadav

APPELLANT

Vs

State Bank of India

RESPONDENT

Date of Decision : 06-01-2014

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2014) 5 ALJ 1

Hon'ble Judges : Dr. Dhananjaya Yeshwant Chandrachud, C.J.; Dilip Gupta, J

Bench : Division Bench

Advocate : H.P. Mishra and J.K. Yadav, Advocate for the Appellant; Satish Chaturvedi, Advocate for the Respondent

Judgement

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1. The learned Single Judge has dismissed a petition seeking compassionate appointment. The deceased employee, Ram Adhar Singh Yadav, was a Guard in the State Bank of India who died in harness on 14 January 2001. His widow submitted an application on 28 March 2001 for appointment of the appellant on compassionate grounds. The appellant also made an application on 26 August 2002. The request was rejected by the Chief Manager on 25 March 2003.

2. In response to the petition under Article 226 of the Constitution, the Bank filed an affidavit stating that the family of the deceased employee had been paid Provident Fund amount of Rs. 1.35 lacs, Gratuity of Rs. 0.59 lacs and family pension of Rs. 1634/- was also being paid.

3. The Scheme of the State Bank of India at the material time required determination of the financial condition of the family after due consideration of the terminal dues including family pension, gratuity and provident fund. The Supreme Court in Punjab National Bank and Others Vs. Ashwini Kumar Taneja, and Union Bank of India and Ors. v. M.T. Latheeh reported in (2006) 7 SCC 35, also held that retiral benefits are liable to be taken into account while dealing

with a prayer for compassionate appointment. This was also the view which was taken by the Supreme Court in General Manager (D and PB) and Others Vs. Kunti Tiwary and Another, .

4. Compassionate appointment is not a matter of vested entitlement and is intended to enable the family of the deceased employee to tide over the immediate financial crisis following the death of the employee. It is also well settled that once the employer has made a due assessment of the financial condition of the family, it would not be open to the High Court under Article 226 to substitute its own conclusion.

5. That apart, the Scheme of the State Bank of India for compassionate appointment was abolished with effect from 4 August 2005 and substituted by a Scheme for payment of ex gratia lump sum amount. This has been noticed in the judgment of the Supreme Court in State Bank of India and Another Vs. Raj Kumar, :--

"8. It is now well settled that appointment on compassionate grounds is not a source of recruitment. On the other hand it is an exception to the general rule that recruitment to public services should be on the basis of merit, by an open invitation providing equal opportunity to all eligible persons to participate in the selection process. The dependants of employees, who die in harness, do not have any special claim or right to employment, except by way of the concession that may be extended by the employer under the rules or by a separate scheme, to enable the family of the deceased to get over the sudden financial crisis. The claim for compassionate appointment is therefore traceable only to the scheme framed by the employer for such employment and there is no right whatsoever outside such scheme. An appointment under the scheme can be made only if the scheme is in force and not after it is abolished/withdrawn. It follows therefore that when a scheme is abolished, any pending application seeking appointment under the scheme will also cease to exist, unless saved. The mere fact that an application was made when the scheme was in force, will not by itself create a right in favour of the applicant."

6. We are of the considered view that the order of the competent authority declining the prayer for compassionate appointment on the basis of the Scheme did not warrant any interference. The petition under Article 226 was justifiably rejected by the learned Single Judge and since the judgment is consistent with the law laid down by the Supreme Court, no case for interference is made out. The Special Appeal is, accordingly, dismissed. There shall be no order as to costs.