
(2007) 10 AHC CK 0025
In the Allahabad High Court

Rajesh Kumar (Rajesh Kumar Pandey)	APPELLANT
Vs	
General Manager, Allahabad Bank and Others	RESPONDENT

Date of Decision : 23-10-2007

Acts Referred:

Citation : (2008) 116 FLR 801 : (2008) 2 UPLBEC 62

Hon'ble Judges : Devi Prasad Singh, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Devi Prasad Singh, J.—Petitioner's father Late Sri Chandrapal Pandey was a Cashier in Allahabad Bank Amethi Branch, Sultanpur. He died in harness on 9th December, 1998. After his death, petitioner applied for appointment on compassionate ground. By impugned order dated 15th October, 2001 contained in Annexure-8, petitioner's candidature has been rejected by Chief Manager, Allahabad Bank on the ground that Late Chanderpall was punished on account of misconduct by stoppage of two increments permanently. Thus, on account on the fact that he was punished for misconduct during the course of employment, respondents have declined to appoint the petitioner on compassionate ground.

2. Petitioner's Counsel submits that the order of punishment was passed on 23rd March, 1991 and Late Chandrapal Pandey died almost after seven years, during the course of service. Petitioner's Counsel has invited attention to Clause (b) of the scheme of appointment on compassionate ground filed as Annexure-2 to the counter affidavit by the respondents which is reproduced as under:

In case where disciplinary proceedings were pending or were being contemplated at the time of death of the employee or the employee was proceeded against before death the appointment of the dependents of such employees (as defined in the scheme in the bank's service shall only be considered after prior approval of the Ministry of Finance indicating details of the cases).

3. Submission of the petitioner's Counsel is that merely because Late Sri

Chandrapal Pandey was punished by stoppage of two increments, petitioner cannot be denied the appointment on compassionate ground. There is no bar to grant appointment to the dependent of deceased employee who has been punished for any misconduct during the course of employment. Petitioner's Counsel has placed reliance on a case in *Vijay Singh v. Rani Laxmi Bai Kshetriya Grameen Bank, Jhansi* 2005 (107) FLR 748 (All.), wherein Hon'ble Judge of this Court has held that stoppage of two increments for two years to deceased employee cannot be held to be a disqualification or impediment; for appointment on compassionate ground. Submission of petitioner's Counsel Sri Rudra Mani Shukla seems to have force. Case referred to hereinabove indicates that only rider contained in the scheme of the Bank is that in case at the time of death disciplinary proceeding is pending or was contemplated then the case of dependents of such employee shall be sent for approval to the Ministry of Finance. In the facts and circumstances of the case, present controversy does not seem to be covered by rider placed by the scheme for compassionate appointment, a copy of which has been filed as Annexure-2 to the counter affidavit.

4. In the present case, Late Sri Chanderpal Pandey's death took place during the course of employment in the year 1998. The scheme of compassionate appointment a copy of which has been filed by the respondents does not postulate that hi case an employee has been punished for any misconduct during the course, of employment his or her dependent cannot be given appointment. My attention has been invited to no such rider contained in the scheme.

5."- In view of the above impugned order dated 15th October, 2001 seems to have been passed on unfounded grounds. The acceptance or rejection of the claim of a person for appointment on compassionate ground should have been done strictly by adhering to the scheme for compassionate appointment. Respondents were not right in travelling beyond the scheme while declining for appointment on compassionate ground. It is settled proposition of law that in case the authorities want to do something, then that should be done in accordance with the Rules or Regulations and not otherwise.

6. In view of the above, impugned order is not sustainable in law and is liable to be set aside. The writ petition deserves to be allowed.

The writ petition is allowed. A writ in the nature of certiorari is issued setting aside the impugned order dated 15th October, 2001 contained in Annexure-8 to the writ petition. Opposite parties are directed to reconsider the petitioner's case for appointment on compassionate ground strictly in accordance with Scheme for appointment on compassionate ground to the dependents of the employee of the Bank in question (petitioner), a copy of which has been filed as Annexure-2 to the counter affidavit forthwith keeping in view the observation made hereinabove, by passing a speaking and reasoned order preferably within two months from the date of receipt of a certified copy of this order and communicate the decision to the petitioner.

There is no order as to costs.