(2013) 06 KL CK 0023

In the High Court Of Kerala

Case No : WA. No. 757 of 2013

State Bank of India and Another — APPELLANT

Vs

Aneesh Antony — RESPONDENT

Date of Decision : 10-06-2013

Acts Referred:

Citation : (2013) LabIC 4421 : (2014) 1 SCT 809

Hon'ble Judges : Manjula Chellur, Acting C.J.;K. Vinod Chandran, J

Bench : Division Bench

Advocate : George Thomas Mevada, for the Appellant; Asok M. Cherian, for the Respondent

Final Decision : Dismissed

Judgement

K. Vinod Chandran, J.—The appellant-Bank impugn the judgment of the learned single Judge, which directed the consideration of the claim of the respondent for compassionate appointment to one of the family members of the deceased employee. The respondent is the son of a Senior Head Messenger of the Bank, who died-in-harness. On application being given, the Bank rejected the same by Exhibit P1. Exhibit P1 found that the financial condition of the family of the deceased employee could not be termed as indigent; since the terminal benefits after deduction paid to the family is Rs. 3.64 lakhs; the family had funds of Rs. 1.07 lakhs invested by the deceased in insurance; monthly pension of Rs. 4,132/- is payable to the family and also the factum of the family owning a house. Against Exhibit P1 rejection, a representation was given, evidenced by Exhibit P2, by the wife of the deceased employee, contending that the terminal benefits paid by the Bank was utilized for satisfaction of debts incurred by the deceased employee for the elder daughter''s marriage and that apart from the married daughter, the family of the deceased employee consists of his wife, two sons and another daughter; all the children being students and daily life was in jeopardy due to the untimely death of the employee. Seeking quashing of Exhibit P1 and consideration of Exhibit P2, the respondent was before this Court and the learned single Judge directed consideration afresh.

2. We notice that the learned single Judge directed consideration of the matter afresh after giving an opportunity of hearing to the respondent and other affected parties and after making a fresh enquiry with regard to the financial status of the family. We also take note of the fact that, on calling for the files and perusing it, the learned single Judge found that the Deputy General Manager had recommended the case of the appellant/writ petitioner after taking into account the relevant materials. Quite contrary to this, it is pertinent that Exhibit P1 order rejected the claim on the ground of the family having sufficient funds at its disposal, disentitling consideration on the basis of circumstances of penury. The learned Senior Counsel appearing for the Bank also placed before us the decision of the Supreme Court reported in State Bank of India and Others Vs. Jaspal Kaur, wherein, in a similar situation, the Hon''ble Supreme Court rejected the claim for reason of the terminal benefits and the pension payable being sufficient to enable the deceased employee''s family to tide over the circumstance of untimely death of the sole breadwinner. The Scheme, according to the Senior Counsel, permitted such consideration and the terms were accepted by the Supreme Court.

3. In the instant case, however, when a representation was given pointing out certain extenuating circumstances, the Bank chose not to consider it and that is when the son of the deceased employee approached this Court. The Bank, by its counter affidavit, seeks to justify the rejection and explained the circumstances placed before it by the representation. We notice that the claim of the terminal benefits having been applied to satisfy the debts incurred for the elder daughter''s marriage was not at all enquired into; but was declined as apparently incorrect and totally unsubstantiated in the counter affidavit. It is also pertinent that with respect to the further assertions regarding the penurious situation of the family and the discontinuance of education, the Bank brushes it away in its counter affidavit, stating that they are not aware of any such discontinuance and that it might be due to other reasons also. These averments evidently display the levity with which the enquiry was conducted by the Bank with respect to the financial constraints put forth by the respondent''s mother, before the Bank by Exhibit P2 representation.

4. Apart from this, the Bank has valued the residential property of the deceased employee, which also was a consideration for rejection of Exhibit P1 and that is reigning supreme in the averments placed in the counter affidavit. Going by the aforesaid Supreme Court decision and the Scheme of the Bank, as is evident in paragraph 24 of the said decision, the valuation of a residential house in which the family of the deceased live, after the death of the deceased, is not at all a consideration coming under the Scheme. It would almost be akin to stating that they could as well sell their residential property and live on the money obtained therefrom. We do not think, that is the spirit and tenor of the Scheme of compassionate appointment. We do not say anything on merits; but only say that the enquiry into the facts placed as per Exhibit P2 representation has to be

done de novo and orders passed in accordance with the Scheme. We are not convinced that the judgment of the learned single Judge calls for any interference.

Writ Appeal is dismissed. No costs.