

(2001) 04 AHC CK 0089
In the Allahabad High Court
Case No : Special Appeal No. 134 of 2001 (SS)

State Bank of India and others

APPELLANT

Vs

Ram Piyarey

RESPONDENT

Date of Decision : 17-04-2001

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2001) 2 AWC 1508 : (2001) AWC 1508 : (2005) 2 UPLBEC 1593 : (2001) 2 UPLBEC 1597

Hon'ble Judges : S.K. Sen, C.J.; Ashish N. Trivedi, J

Bench : Division Bench

Advocate : N.K. Seth and Sudeep Seth, for the Appellant; H.G.S. Parihar, for the Respondent

Final Decision : Disposed Of

Judgement

S.K. Sen, C.J.—Heard Sri N. K. Seth, learned advocate for the appellants and Sri H.G.S. Parihar, learned advocate, for the writ petitioner.

2. This Special Appeal Is directed against the judgment and order dated 31.1.2001 whereby the learned single Judge allowed the writ petition which was filed against the impugned orders of the Bank rejecting the application of the petitioner for appointment on compassionate ground as the father of the petitioner died-in-harness.

3. The learned single Judge recorded that the plea taken by the Bank in rejecting appointment on compassionate ground is that the widow of the deceased is getting family pension of Rs. 2,150 and that a further sum of Rs. 1.42 lacs was paid to the widow after deducting the loan amount and the family possesses two houses and a half hectare of non-irrigated land.

4. It appears from the record that the Chief General Manager, State Bank of India, Lucknow, recommended the case of the petitioner for compassionate appointment. The total Income per annum mentioned by the family members of

the deceased employee was Rs. 6,000 which comes to Rs. 500 per month. The deceased left four daughters including two unmarried daughters and two sons. Leaving aside the two married daughters, the widow shall have to maintain the unmarried daughters and two sons and it is impossible to maintain a family at an earning of Rs. 500 per month.

5. The decision relied upon by the learned Advocate, for the appellants rendered In the case of Life Insurance Corporation of India Vs. Mrs. Asha Ramachandra Ambekar and another, , in our view cannot be of any assistance to the appellants. In that case the Supreme Court has held that while granting relief in a case under Article 226 for compassionate appointment, the Court cannot ignore the statutory provisions. The Supreme Court on facts found that the Life Insurance Corporation Recruitment (of Class III and Class IV staff) Instructions, 1979 were not complied with and the Court did not consider that aspect of the matter. The Supreme Court further held where any member of the family was employed, there is no need for compassionate appointment.

6. In the instant case, it has not been shown by the State Bank of India that any member of the family has been employed or appointed on regular basis. On the contrary, Chief General Manager forwarded the case of the respondent-petitioner for compassionate appointment in the form filled by the son of the deceased mentioning that the income of the family per annum is only Rs. 6,000. It appears to us that the Chief General Manager was satisfied that the compassionate appointment should have been made and as such recommended the case. There is no reason thereafter to ignore the case for appointment and the central office wrongly rejected the case.

7. The other decision relied upon by the learned Advocate, for the appellants in the case of Umesh Kumar Nagpal Vs. State of Haryana and Others, , in our view, is also of no assistance to the appellants since the said decision has only laid down that the compassionate appointment can be offered as a matter of course irrespective of the financial crises.

8. It is well-settled that 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 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 member of the family.

9. That apart, in the aforesaid decision in Umesh Kumar Nagpal (supra) the case for compassionate appointment was rejected since the application was made after a lapse of a reasonable period and the Supreme Court held that the object being to enable the family to get over the financial crisis which it faced at the time of death of the sole breadwinner, the compassionate appointment cannot be claimed after a lapse of long period. In the Instant case, the application for compassionate appointment was, as admitted by the learned Advocate on behalf of the State Bank of India, was made without any delay.

10. In the Instant case, as we have already noted that the income of the family

was not sufficient to maintain and, therefore, to tide over the financial crisis on the sudden death of the employee refusing appointment on compassionate ground is unjustified. We are of the view that the financial position of the family of the deceased employee requires such compassionate appointment on the facts of the case.

11. In our opinion, the learned single Judge was correct In holding that the receipt of family pension by the widow and a sum of Rs. 1.42 lacs paid to widow after deducting the loan cannot be taken to be a good ground for rejecting the case for appointment on compassionate ground. It is common knowledge that the widow is entitled to family pension and other benefits in the event her husband died-in-harness. If the plea of the Bank is accepted then no appointment can be made on compassionate ground and the scheme of the Bank shall have no meaning. We are of the view that the learned single Judge was quite justified in allowing the writ petition.

12. Accordingly, we direct the State Bank of India to reconsider the case of the writ petitioner in the light of the observations made by us and considering the financial stringency and hardship and shall take appropriate decision in accordance with law for compassionate appointment within two months from the date of communication of this order. We modify the order under appeal to the extent indicated above as mentioned hereinabove. In other respect the order passed by the learned single Judge does not call for any interference. Accordingly, the special appeal is disposed of with the aforesaid observations.