(2010) 07 SHI CK 0098

In the High Court Of Himachal Pradesh

State Bank of India and Others APPELLANT

Vs

Sheetal Devi RESPONDENT

Date of Decision : 06-07-2010

Acts Referred:

Citation : (2010) 07 SHI CK 0098

Hon'ble Judges : Kurian Joseph, C.J;Kuldip Singh, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Kurian Joseph, C.J.—The appellants are the respondents in the writ petition. The issue pertains to the claim made by the writ petitioner for appointment under the Scheme for compassionate appointment. The learned Single Judge after setting aside the impugned order passed by the Bank rejecting the claim for compassionate appointment issued a direction to the Bank to consider the matter afresh. The writ petitioner was also directed to file a detailed representation with documentary evidence, to the extent available.

2. Mr. K.D. Sood, learned Counsel appearing for the Bank submits that the compassionate appointment is governed by the Scheme of the Bank and that Scheme for compassionate appointment has been interpreted by the Supreme Court in various judgment and particular reference is invited to a judgment in Umesh Kumar Nagpal Vs. State of Haryana and Others, and in the case of the appellant-Bank in State Bank of India and Another Vs. Somvir Singh, But in the impugned order, we find that there is no consideration of the case of the writ petitioner in accordance with the Scheme. It may not also be out of context to make an observation that irrelevant factors have been taken into consideration while passing the impugned order. As per the Scheme, the individual circumstances of each case like the income of the member of the family already employed, the size of the family and assets and liabilities of the family are the relevant factors. In the case of the writ petitioner, the size of the family at the time of the death of the bread winner is that he had five minor children. Even

according to the Bank the terminal benefits due to the deceased was an amount of Rs. 2,96,344/- and the outstanding liability from the said amount was Rs. 1,14,075.41, which was adjusted. The family pension paid is Rs. 1778/- and from the MWS as monthly relief, an amount of Rs. 450/- is received. Quite strangely, we find that the Bank has also on hypothetical basis included an amount of Rs. 600/- per month towards the monthly income on the assumption that 80% of the terminal benefits would have been deposited and that would have earned a monthly return of Rs. 600/-. It is a case where the deceased was earning an amount of Rs. 10896/- per month. He had left his wife and five minor children. In place of the monthly income of Rs. 10,000/- what the family was getting was only Rs. 1778/-by way of pension and Rs. 450/- by MWS as monthly relief. In such circumstances, the assumption of the Bank that Rs. 1,45,800/- would have been deposited, it appears to us to be quite unreasonable. Even according to the Bank, the balance left in the Bank was only Rs. 56,000/- and that would not have certainly enured interest at the rate of Rs. 600/- per month. For a family consisting of five minor children and a widow to keep an amount of Rs. 56,000/- in the Bank to get over any unforeseen eventuality is the minimum that they could do and that by itself cannot depict the sound financial situation of the family. Even otherwise, the Scheme does not anywhere provide for a cap to mark the sound financial position of the family. As already stated above, even as per the Scheme, the financial situation would depend on various factors like the size of the family, the assets and liabilities of the family etc. Since the appellants had not taken into account these relevant factors and apparently since some of the irrelevant factors have crept in, the learned Single Judge thought it fit to direct the Bank to consider the issue afresh and the writ petitioner had also been granted an opportunity to make a detailed representation.

3. Despite the persuasive arguments advanced by Mr. K.D. Sood, learned Counsel for the Bank, we do not think that the judgment calls for interference since the view taken by the learned Single Judge is a plausible view and the direction is only to consider the matter in accordance with the Scheme, having regard to the relevant factors. In that view of the matter, we do not find any merit in this appeal and the same is dismissed, so also the pending applications, if any.

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