

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

CWP-23875-2015(O&M)
Reserved on: 11.02.2025
Pronounced on: 21.02.2025

SMT. SUDESH KUMARI

. . . .PETITIONER

Vs.

PUNJAB GRAMIN BANK AND OTHERS

. . . . RESPONDENTS

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Argued by:- Mr. Rohiteshwar Singh, Advocate, for the petitioner.

Mr. H.S. Bhatia, Advocate, for respondent No.1.

DEEPAK GUPTA, J.

By way of this petition filed under Article 226/227 of the Constitution of India, petitioner prays for issuance of the writ in the nature of certiorari for quashing the reply dated 16.04.2015 (*Annexure P8*) of the respondents, vide which claim of the petitioner for grant of *ex gratia* amount of ₹6 lakh on account of death of her husband has been declined. Petitioner further prays for issuance of the writ of mandamus by directing the respondents to grant *ex gratia* amount to the petitioner on account to the death of her husband on duty as per the Scheme dated 26.08.2006, which was issued vide circular No.3/2007 dated 10.01.2007 (*Annexure P9*), along with interest.

2.1 Sh. Nasib Singh, husband of the petitioner, had initially joined the Indian Army as Sepoy on 20.11.1973 and was discharged from there on 16.11.1979. He was then appointed as Peon-cum-Messenger in the year 1990 by the respondent-Bank. Unfortunately, he expired on 09.11.2011, leaving behind six dependents - wife (*petitioner*), three married daughters and two unmarried sons. Petitioner approached the respondents for grant of family

pension to her and also for compassionate appointment to either of her sons. However, she was informed vide letter dated 17.01.2012 (*Annexure P2*) by respondent No.4 that there was no provision for family pension. However, petitioner was informed by respondent No.2 vide letter dated 09.03.2012 (*Annexure P3*) that Board of Directors had adopted a scheme for payment of *ex gratia* (lumpsum amount) in lieu of appointment on compassionate ground, regarding which a circular dated 10.01.2007 had been issued and that she could apply for *ex gratia* amount under the said scheme.

2.2 Petitioner accordingly applied for *ex gratia* amount vide letter dated 16.03.2012, but with no fruitful result. Despite repeated representations, no action was taken, compelling the petitioner to serve a legal notice dated 16.03.2015 (*Annexure P7*), which was responded by the respondents vide impugned reply dated 16.04.2015 (*Annexure P8*) stating therein that monthly family income of the petitioner was more than 60% of the last monthly salary drawn by her deceased-husband and so, she was not entitled for the *ex gratia* amount in view of Clause 8 of the Scheme and the circular dated 10.01.2007. As such, claim of the petitioner for *ex gratia* was rejected.

2.3 The aforesaid action of the respondents has been assailed by the petitioner by way of this petition by submitting that respondents have wrongly included monthly Defence Pension of ₹5530/- in the monthly family income of the petitioner and that it should have been excluded. Petitioner has relied upon decision of this Court rendered in ***Smt. Santosh Devi Vs. Oriental Bank of Commerce and another, 2009 (7) SLR 403.***

3. As per the stand taken by the respondents, petitioner was getting family pension from Army i.e. the previous employer of her husband and as such, that amount was liable to be included in the family income. It is stated that after including the said income, total monthly income of the family is calculated to be more than 60% and therefore, petitioner was not entitled for grant of *ex gratia* under the Scheme. Prayer is accordingly made for dismissal of the petition.

4. This Court has considered submissions of both the sides and has appraised the paper-book.

5. In ***State Bank of India and others Vs. Somvir Singh, (2007) 4 SCC 778***, Hon'ble Supreme Court while commenting on employment to any office under the state and the appointment on compassionate grounds, observed as under: -

“6. We have given our earnest consideration to the rival submission made during the course of hearing of this appeal.

Article 16(1) of the Constitution of India guarantees to all its citizens equality of opportunity in matters relating to employment or appointment to any office under the State. Article 16(2) protects citizens against discrimination in respect of any employment or office under the State on grounds only of religion, race, caste, sex, descent. It is so well settled and needs no restatement at our ends that appointment on compassionate grounds is an exception carved out to the general rule that recruitment to public services is to be made in a transparent and accountable manner providing opportunity to all eligible persons to compete and participate in the selection process. Such appointments are required to be made on the basis of open invitation of applications and merit. Dependents of employees died in harness do not have any special or additional claim to public services other than the one conferred, if any, by the employer.

7. In ***Umesh Kumar Nagpal Vs. State of Haryana Manu/SC/0701/1994: (1994) 3 SCR 893*** this Court held, "As a rule, appointments in the public services should be made strictly on the basis of open invitation of applications and merit. No other mode of appointment nor any other consideration is permissible. Neither the Governments nor the public authorities are at liberty to follow any other procedure or relax the qualifications laid down by the rules for the post. However, to this general rule which is to be followed strictly in every case, there are some exceptions carved out in the interest of justice and to meet certain contingencies. One such exception is in favour of the dependents of an employee dying in harness and leaving his family in penury and without any means of livelihood. In such cases, out of pure humanitarian consideration taking into consideration the fact that unless some source of

livelihood is provided, the family would not be able to make both ends meet, a provision is made in the rules to provide gainful employment to one of the dependants of the deceased who may be eligible for such employment. The whole object of granting compassionate employment is thus to enable the family to tide over the sudden crisis. The object is not to give a member of such family a post much less a post held by the deceased."

8. In ***Union Bank of India & Ors. Vs. M.T. Latheesh MANU/SC/8425/2006: (2006) III LLJ 791 SC***, this Court while dealing with the similar question observed that indiscriminate grant of employment on compassionate grounds would shut the door for employment to the ever-growing population of unemployed youth.

9. There is no dispute whatsoever that the appellant-Bank is required to consider the request for compassionate appointment only in accordance with the scheme framed by it and no discretion as such left with any of the authorities to make compassionate appointment de hors the scheme. In our considered opinion the claim for compassionate appointment and the right, if any, is traceable only to the scheme, executive instructions, rules etc. framed by the employer in the matter of providing employment on compassionate grounds. There is no right of whatsoever nature to claim compassionate appointment on any ground other than the one, if any, conferred by the employer by way of scheme or instructions as the case may be."

(emphasis added)

6. In the present case, as the reply filed by the respondents, would reveal that National Bank for Agriculture and Rural Development instead of framing scheme for appointment on compassionate grounds, issued a letter dated 13.07.2006 (*Annexure R1*) providing for 'Model Scheme for payment of *Ex gratia* (lumpsum amount) in lieu of appointment on the compassionate grounds in RRBs'. The said Scheme are extended to RRBs including the respondent-bank as per this letter dated 13.07.2006. Consequent thereto, the Punjab National Bank, the Sponsor Bank of the respondent-Bank, advised the respondents-bank to implement the scheme vide letter dated 24.07.2006 (*Annexure R2*). The Board of Directors of the respondent-bank accordingly

approved the implementation of the Scheme for payment of *ex gratia* (lumpsum amount) in lieu of the appointment on compassionate ground, in its meeting held on 26.08.2006. Copy of the minutes dated 26.08.2006 is *Annexure R3*. Circular N: 03/2007 dated 10.01.2007 (*Annexure R-4*) was then issued by respondent – Punjab Gramin Bank to all its offices, sending details of the Scheme attached as *Annexure A* with the said circular.

7. The application of the petitioner was considered under the above scheme for *ex gratia* payment, accordingly.

8. Perusal of *Annexure R3* would reveal that it gives the background of the matter to the effect that earlier Scheme for appointment of dependents of the deceased employees on compassionate grounds to be uniformly implemented by public sector banks was advised by the Banking Division, Government of India, on 12.09.1978. There is then reference of the judgment of Hon'ble Supreme Court of India in ***Umesh Kumar Nagpal Vs. State of Haryana (supra)*** carving out exception in favour of the dependents of an employee dying in harness and leaving his family in penury and without any means and livelihood. It was noticed that whole object of granting compassionate appointment was to enable the family to tide over the sudden crisis. It was observed further that mere death of an employee in harness does not entitle his family to such source of livelihood and that the Government or Public authority concerned was required to examine the financial condition of the family of the deceased and it is only if it is satisfied that but for the provision of employment, the family of the deceased will not be able to meet the crisis, that a job is to be offered to the eligible member of the family.

9. *Annexure R3* reveals further that the Government advised the Public Sector Banks in August 1996 to keep the above principles in view while deciding compassionate appointments in the banks. It was noticed further as per *Annexure R3* that notwithstanding the objective of the scheme, over a period of time, banks had faced several difficulties in administering the scheme, which included building up of excess manpower due to appointment on compassionate grounds in supernumerary position; compulsion to appoint

dependents despite their not possessing the minimum academic/technical qualifications required for the job in emerging competitive and technological environment; litigations for employment of dependents; and practical difficulty in determining indigent condition of the family of the deceased employee.

10. Keeping in mind the principles laid down by Hon'ble Supreme Court in ***Umesh Kumar Nagpal case (supra)*** and that object to be achieved was to provide relief to the family to tide over the sudden crises brought by his/her premature death, and that such relief envisaged could be of a nature which would provide the distressed family immediate succor and financial assistance to recover from the unexpected deprivation of the income of the sole bread-winner of the family; and to bring about a balance between the business objectives of the banks and their social obligations towards the families of the employees dying in harness, Model Scheme *Annexure R3* was formulated by Indian Bank's Association for grant of *ex gratia* amount to the family of the deceased employee in lieu of the appointment on compassionate grounds.

11. The respondent-bank framed its own scheme, issued vide Circular *Annexure R4* dated 10.01.2007 titled as "*Scheme for Payment of Ex gratia (lumpsum amount) to the families of those employees who died in harness or seek premature retirement due to incapacitation before reaching the age of 55 years*".

12. The above Scheme provide for the eligibility conditions, the competent authority to sanction *ex gratia*, procedure; and the procedure for calculation of the *ex gratia* amount. Clause 8 of the said Scheme attached as *Annexure-A* along with Circular *Annexure R4*, is relevant for the purpose of present case, which read as under: -

"8. PROCEDURE FOR CALCULATION OF EX-GRATIA AMOUNT

Ex-gratia may be granted to the Family of the employee in the manner and subject to the ceiling as specified below, if the monthly income of the family from all sources is less than 60% of the last drawn salary (net of Taxes) of the employee.

(A) CALCULATION OF MONTHLY INCOME

(1) Terminal Benefits

- (i) Provident Fund
- (ii) Gratuity
- (iii) Leave Encashment
- (iv) Any other amount paid under Bank's Scheme(s)

Sub Total (A) _____

(2) Liabilities

Loans taken from bank and/or other
Financial institutions with the
prior Approval of the Bank

Sub Total (B) _____

(3) Net corpus of terminal benefits

(C=A-B) _____

(4) Investments:

- Deposits
- NSCs
- PPF
- LIC policies
- Others

Sub Total (D) _____

(5) Details of movable property, if any,
held and monthly income derived therefrom

(6) Details of immovable property, if any,
held and monthly income therefrom

(7) Monthly income of the family from all sources

i) Monthly interest at the Bank's maximum

term deposit rate on the net corpus of

terminal benefits (C)

ii) Monthly income from investments

iii) Monthly income from movable and
immovable property

iv) Monthly income of dependent family members

v) Any other monthly income

Total monthly income of the family _____

(B) CALCULATION OF EX-GRATIA AMOUNT

If the total monthly income of the family arrived at in terms of Para 8 (A) above is less than 60% of the last drawn gross salary (net of taxes) of the employee, ex-gratia amount as under will be payable.

i) In case the monthly income of the family as calculated above is less than 60% of the last drawn gross salary (net of taxes) of the employee, ex- gratia amount calculated @ 60% of the last drawn gross salary (net of taxes) for each month of remaining service of the employee (i.e. up to the age of superannuation in terms of extent service rules/conditions) at the time of his death/incapacitation subject to the cadre-wise ceiling of "Maximum Amount" mentioned under Para (ii) below will be payable.

ii) The cadre-wise ceiling on ex-gratia amount payable will be as follows:

<u>Category</u>	<u>Maximum Amount</u>
Officers	Rs.8 lacs
Clerical Staff	Rs.7 lacs
Sub-ordinate staff	Rs.6 lacs

iii) In case of death of an employee performing official duty within or outside the office premises (excluding travel from residence to place of work and back) due to dacoity/robbery/terrorist attack, the family is also eligible to receive, additionally, the onetime monetary compensation in terms of extant government guidelines depending on the cadre of the employee."

13. It is clear from the abovesaid provision that *ex gratia* amount may granted to the family of the employee, only in case the monthly income of the family from all sources is less than 60% of the last drawn salary (net of taxes) of the deceased employee. The competent authority of the respondent-Bank is required to consider the case of the eligible person as per the parameters laid down in the scheme. In order to see that family income of the deceased-employee is or is not less than 60%, the calculation of the monthly income is to

be done by taking into account the various factors as mentioned in Clause 8 reproduced above.

14. In the present case, the impugned reply (*Annexure P-8*), which was sent by the respondent-Bank to the counsel for the petitioner in response to the legal notice, would reveal that following details of the family income of the petitioner were taken into consideration:-

i	Monthly defence pension	₹5530/-
ii	Monthly EPF Pension	₹2051/-
iii	Monthly income on net corpus of Terminal benefits at Bank's maximum term deposit rate i.e. 9% per annum	₹5191/-
	Total	₹12,772/-.

15. Thus on calculation, the family income of the petitioner was found to be ₹12,772/-, which was found to be more than 60% of the last monthly salary (net of taxes) drawn by Late Nasib Singh, which was ₹17044/- and as such, it was found that family of late Nasib Singh was not eligible for grant of *ex gratia* amount as per Clause 8 of the abovementioned circular (*Annexure R4*).

16. The contention raised by Id. counsel for the petitioner is that monthly Defence Pension of ₹5530/-, being received by the petitioner, was not liable to be included in the family income of the deceased. It is argued that if this amount of ₹5530/- is excluded from the family income, then the family income will be less than 60% of the last monthly drawn salary of deceased Nasib Singh and then petitioner becomes entitled for the grant of *ex gratia* amount. It is also the contention of Id. counsel that monthly interest on net corpus of terminal benefits at bank's maximum term deposit rate i.e., 9% totaling ₹5191/- was also not liable to be included in the family income. Id. counsel has relied upon a decision of this Court rendered in ***Smt. Santosh Devi Vs. Oriental Bank of Commerce and another, 2009 (7) SLR 403***, which was upheld by a Division Bench of this Court in ***LPA No.585 of 2009*** titled ***Oriental***

Bank of Commerce and another Vs. Smt. Santosh Devi, decided on 21.04.2014 [Manu/PH/0245/2014].

17. There is no merit in the above contention. It is to be noted that there is no provision for grant of family pension in the respondent-bank as per the letter dated 17.01.2012 (*Annexure P2*). The amount of ₹5530/-, which has been taken into consideration by the respondent-bank, while calculating the monthly family income of the petitioner, is the monthly Defence Pension, which the petitioner was getting from the previous employer of the deceased-Nasib Singh, who was earlier a Sepoy in the Indian Army and was getting the said pension. Said monthly Defence Pension being drawn by the petitioner will certainly fall within the scope of '*Any other family Income*', as mentioned in Para No.7 (v) of Clause 8 of the Scheme reproduced above and so, this is liable to be taken into consideration so as to calculate the total family income of the petitioner.

18. Similarly, the amount of ₹5191/- (*monthly interest on net corpus of terminal benefits at bank's maximum term deposit rate i.e. 9% per annum*), which has been taken into consideration by the respondent bank while calculating the total family income, falls within scope of Para No.7 (i) of the Clause 8 of the Scheme, as reproduced above.

19. Respondents cannot be directed to ignore any of the parameters laid down in the Scheme. The competent Authority is better equipped to decide the cases on facts of the case and their objective finding arrived on appreciation of full facts, should not be disturbed, as has been held by Hon'ble Supreme Court in ***State Bank of India vs. Jaspal Kaur (2007) 9 SCC 571***.

20. On account of the entire discussion as above, it is held that respondents have not committed any error in including the monthly Defence Pension of ₹5530/- and monthly interest on net corpus of terminal benefits at bank's maximum term deposit as ₹5191/- so as to find out that total income of the family of the petitioner was ₹12,772/-, which was more than 60% of the

last drawn salary of the deceased-Nasib Singh. As such, it is rightly held by the respondents that the petitioner was not entitled for *ex gratia*.

21. Consequently, this Court does not find any merit in the writ petition and as such, the same is hereby dismissed.

21.02.2025

Vivek

**(DEEPAK GUPTA)
JUDGE**

<i>Whether speaking/reasoned?</i>	<i>Yes</i>
<i>Whether reportable?</i>	<i>Yes</i>