

A.F.R.

Neutral Citation No. - 2025:AHC:118168

Court No. - 50

Case :- WRIT - A No. - 1019 of 2025

Petitioner :- Smt. Naina Gupta

Respondent :- Union Of India And 4 Others

Counsel for Petitioner :- Siddharth Khare,Sr. Advocate

Counsel for Respondent :- A.S.G.I.,Ajay Shankar

Hon'ble Ajay Bhanot,J.

1. The judgement is being structured in the following conceptual framework to facilitate the discussion:

| | | |
|------------|---|---|
| I | Introduction | |
| II | Facts established from the record | |
| III | Submissions of learned counsel for the parties | |
| IV | Issues arising for consideration | |
| V | Appointments on compassionate grounds : rationale & purpose | |
| VI | A | Disputes and competing claims in the process of compassionate ground appointments : General |
| | B | Disputes and competing claims regarding compassionate appointments: Duties of the employer |
| VII | Analysis of the competing claims : | |
| | a | Eligibility of parties for appointment |
| | b | Financial status of parties |
| | c | Comparative long term commitments and other support systems of the parties |
| | d | Benefits to all dependents of deceased |

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| VIII | Validity of stand of the respondent no. 5 against the petitioner and maintenance needs of respondent no. 5 |
| IX | Answers to the issues arising for consideration |
| X | Conclusions & Directions |

I. Introduction

2. The petitioner has assailed the order dated 21.10.2024 issued by the Branch Head, UCO Bank, Zonal Office, Varanasi Zone, Varanasi, insofar as it mandates the petitioner to furnish various documents including letter of relinquishment duly executed by Ms. Meena Gupta-respondent no. 5, which are required to decide the petitioner’s claim for compassionate appointment. According to the petitioner she is entitled to be appointed without production of the said documents.

II. Facts established from the record

3. Kuldeep Gupta was working as a Single Window Operator in UCO Bank, Mahmoorganj Branch, Varanasi. He was married to the petitioner. The couple had one son in the wedlock. Kuldeep Gupta died in harness on 21.01.2024. The deceased is survived by his wife (petitioner) and a son. The mother of the deceased (respondent no.5) was also dependent on him. The petitioner has made a claim for appointment on compassionate grounds.

4. Evidently there is no love lost between the two ladies. Infact there is an open discord between them over the appointment on compassionate grounds. The respondent no. 5 has declined to issue the letter of relinquishment in favour of the petitioner, and has also refused to execute other relevant documents. The said documents are essential requirements to process the petitioner's claim and in the absence thereof the appointment of the petitioner has been held up.

III. Submissions of learned counsel for the parties:

5. Shri Siddharth Khare, learned counsel assisted by Shri Aditendra Singh, learned counsel for the petitioner made the following submissions:

I. The petitioner is eligible for appointment on compassionate grounds on account of her age and educational qualifications. The respondent no. 5 cannot be appointed in view of her age and ineligibility for appointment.

II. The petitioner faces greater financial hardship compared to the respondent no. 5.

III. Denial of appointment on compassionate grounds to the petitioner on account of opposition of the respondent no. 5 will also visit penal consequences on her minor son.

IV. The petitioner affirms her obligations to maintain respondent no. 5 and undertakes to provide for the respondent no. 5 on terms to be decided by this Court.

6. Shri Utkarsh Khanna, learned counsel for the respondent no. 5 submits:

I. The respondent no. 5 is an old lady and was dependent on her son.

II. The petitioner resides separately and is not taking care of respondent no. 5.

III. The petitioner is not entitled for appointment on compassionate grounds.

7. Shri Mohd. Mohsin, learned counsel holding brief of Shri Ajay Shankar, learned counsel for the respondent Bank states:

I. The Bank is open to process the claim of the petitioner for grant of appointment on compassionate grounds if the respondent no. 5 executes the relevant documents in favour of the petitioner and gives her no objection.

IV. Issues arising for consideration:

8. The following issues arise for consideration in the facts of this case:

A. Whether the claim of the petitioner for appointment on compassionate grounds can be declined on the footing that

the respondent no. 5 has failed to give the letter of relinquishment and has refused to execute other documents in her favour?

B. Whether the petitioner is entitled to appointment on compassionate grounds? If yes, whether the interests of respondent no. 5 are liable to be protected while granting appointment on compassionate grounds to the petitioner and the manner in which the entitlements of respondent no. 5 will be secured?

V. Appointments on compassionate grounds : rationale and purpose

9. Compassionate ground appointments are a welfare measure taken by model employers to benefit the dependent family members of a deceased employee. The sole purpose of compassionate appointments is to enable the dependent family members to tide over the immediate financial crises caused by the death of the earning member. This feature alone constituted the kin/dependents of the deceased employee into one class, and on this sole footing the rationale of compassionate grounds appointment was legitimated by the Constitutional Courts. The compassionate grounds appointments provide a sheltered entry to an eligible dependent of the deceased employee without facing the rigours of a public selection process. The nature of the

compassionate appointments is such that they contemplate various relaxations to enable appointment of the eligible dependent without unnecessary hindrances.

VIA. Disputes and competing claims in the process of compassionate ground appointments: General

10. Compassionate ground appointments are expected to be processed smoothly and in an expeditious manner with the support and the consensus of all family members. However, family disputes or rival claims can delay the process of appointment on compassionate grounds.

11. Family disputes cannot not frustrate the claims of an eligible family member to appointment, or deprive other dependents of the deceased of their entitlements to avail monetary benefits from such appointment.

12. The stalemate in the petitioner's appointment due to the opposition of respondent no. 5 will defeat the beneficial intent of compassionate appointments by pushing all dependents of the deceased on the brink of starvation, and will permanently blight the future of the petitioner's minor son. The discord between parties has not abated, and the process of compassionate appointment has ground to a halt. The contesting claims of the parties have to be adjudicated on merits.

VIB. Disputes and competing claims/disputes regarding compassionate appointment : Duties of the employer

13. Even in situations of family disputes or contested claims of dependents the employers have to ensure that the legislative intent of grant of appointment on compassionate grounds is implemented. The employer cannot sit still or adopt a hands off approach in such matters as that would tantamount to abdication of statutory duties or legal obligations cast on the employer under any scheme of compassionate appointments holding the field. The endeavour of the employer should be to achieve an amicable resolution of such family disputes if possible, and provide an equitable distribution of the benefits flowing from the appointment when necessary.

14. When the consensus between the family members in regard to grant of appointment is elusive or amicable resolution of such disputes is not possible, the employer has to initiate steps to realize the aim of compassionate ground appointments. An assessment of the comparative financial status, assets, liabilities, long term commitments and educational qualifications of the respective parties is the first step in such enquiry.

15. After evaluation of the aforesaid factors, the process will culminate in the appointment of the most eligible dependent of the deceased which will also give maximum benefits to

other dependents. Simultaneously the interests of other dependents of the deceased have to be protected by adopting appropriate measures to equitably apportion the resources accruing from the said appointment and thus make the welfare scheme properly inclusive.

16. The family member who is appointed on compassionate grounds steps into the shoes of the deceased, and is liable to shoulder the obligations of the deceased and discharge their¹ responsibilities towards other dependent members. An irrevocable undertaking sworn on affidavit to maintain and take care of the financial needs of other dependents² of the deceased by the eligible applicant is a mandatory prerequisite for the appointment on compassionate grounds. Violation of such undertaking by the appointee will be on the pain of cancellation of the appointment on compassionate grounds.

17. In fact shared resources and distributive justice to ameliorate the financial penury of the deceased employee's dependents inhere in the concept of compassionate appointments. Benefits flowing from a compassionate appointment are the common assets of all dependents and not the sole preserve of the appointee. The said assets are liable to be distributed equitably among all dependents and not appropriated exclusively by the appointee.

¹ "their" is being used as a gender inclusive Pronoun in place of "his" or "her". "Their" is used as a singular in such situations. [see : Time (Everything You Ever Wanted to Know About Gender-Neutral Pronouns)]

² Note: Dependents as defined in the Scheme for compassionate appointments

VII. Analysis of the competing claims:

18. The relevant parameters which will guide the final decision on the validity of the rival claims and govern the entitlements of the deceased's dependents are discussed hereinafter.

VII (a) Eligibility of the parties for appointment

19. The petitioner is a post graduate and satisfies the eligibility criteria for appointment on the post of clerk on compassionate grounds in the respondent bank. The respondent bank has confirmed the petitioner's eligibility to be appointed as a clerk (written instructions to this effect are in the record). The respondent no. 5 is 58 years of age. The age of superannuation in the bank is 60 years. Appointment of the respondent no. 5 will not serve any purpose on account of her age. Moreover the respondent no. 5 is ineligible for appointment as a clerk.

VII (b) Financial Status of the parties

20. The financial condition of the petitioner as disclosed in the affidavit filed on her behalf is extracted hereunder:

"3. That the details related with petitioner with regard to property, assets and income of sources are mentioned below:

(i) The petitioner received a total amount of Rs. 4,02,324/- from the respondent bank after her husband expired under various heads.

(ii) The petitioner does not have any movable or immovable property in her name.

(iii). The petitioner has a fixed deposit to the tune of Rs. 53,793/-

4. That it may also be noticed that the petitioner has a two year old son which has to be taken care of coupled with the fact that upon appointment being granted the petitioner will have to rent an accommodation in which also substantial amount would go."

21. The averments have not been denied by the respondent no. 5 in the supplementary counter affidavit.

22. The following averments are made in the supplementary affidavit-II filed in support of the writ petition in regard to the financial status of respondent no. 5.

"5. That on the contrary the respondent no. 5 has an earning son. She has already received an amount of Rs. 12,28,809/- after the petitioner's husband expired. To the best knowledge of the petitioner, there was a fixed deposit opened by the husband of the petitioner ranging between 5 to 8 lacs in which the respondent No. 5 was nominee and with regard to the aforesaid details can only be disclosed either by the respondent Bank or the respondent No. 5 herself. The petitioner is not aware of the same. Apart from the aforesaid various property is in the name of the respondent No. 5."

23. The aforesaid assertions made in the supplementary affidavit-II are not traversed in the supplementary counter affidavit filed by the respondent no. 5 and are hence accepted as true.

24. There are other details regarding her financial status as disclosed in the counter affidavit filed by the respondent no. 5 collectively amount to Rs. 33,000/-.

VII(c). Comparative long term commitments and other support systems of the parties:

25. The petitioner is a single mother who has a young child to care for. Her expenses will rise as the boy grows older. The minor child is completely dependent on the petitioner, and his future is inextricably linked to the fate of his mother. As a single working lady too the petitioner's expenditure will be higher than respondent no. 5. The financial condition of the petitioner is clearly penurious and her commitments are long drawn.

26. The respondent no. 5 on the other hand has a strong support system as she stays with her second son who is gainfully employed and is earning Rs. 13,250/- per month.

27. The respondent no. 5 is residing in the house which is recorded in the name of her father-in-law. She has a heritable right on the aforesaid property along with her surviving son. Due to the estranged relations between the parties, the petitioner is not in a position to stay in the said house. If at all she initiates litigation to assert her rights over the aforesaid property, it will take a long time to be decided. The petitioner does not have a house of her own.

VII (d) Benefits to dependents of deceased by appointment of the petitioner:

28. In view of her age and qualifications the petitioner will have many decades of fruitful employment on the post of clerk in the bank. The compassionate appointment will enable the petitioner to meet her financial commitments, discharge her duties towards her son and secure his future, and also cater to the needs of respondent no. 5. Infact by virtue of her young age and higher qualifications the petitioner is best placed to serve the needs of other dependents of the deceased(including respondent no. 5) for the longest period of time.

29. The petitioner is the only eligible and most suitable candidate for appointment on compassionate grounds.

VIII. Validity of stand of the respondent no. 5 against the petitioner and maintenance needs of respondent no. 5:

30. The opposition of the respondent no. 5 to the petitioner's appointment is constant. On the contrary the petitioner is willing to discharge her obligations towards respondent no. 5 after getting the appointment. Before this Court an undertaking has been given on behalf of the petitioner that she is prepared to give 20% of her salary to the respondent no. 5 on monthly basis. The said undertaking sworn on affidavit shall also be furnished by the petitioner to the

respondent Bank. It is fairly submitted on behalf of the petitioner that the amount may be deducted from her salary directly by the Bank and credited to the account of the respondent no. 5. The stand of respondent no. 5 against the petitioner as discussed from her affidavit filed before this Court no longer holds any water.

31. The respondent no. 5 cannot be permitted to obstruct the appointment of the petitioner after the latter has acknowledged her obligation to maintain respondent no. 5 and is prepared to affirm the same on affidavit. Most importantly the obdurate resistance of the respondent no. 5 to the petitioner's appointment will directly and adversely impact the future of her own grandson. In these facts and circumstances the impediments created by respondent no. 5 in the petitioner's appointment cannot be countenanced in law. The appointment of the petitioner is liable to be processed in the absence of the said documents.

32. The amount which respondent no. 5 will be entitled from the petitioner's salary shall be fixed in light of the above discussion of their family status, comparative hardships and long term commitments. After factoring these issues the respondent no. 5 is held to be entitled to 20% of the monthly salary of the petitioner on a regular basis.

33. The grant of compassionate appointment to the petitioner securing the future of the minor son of the deceased and upholding the entitlements of respondent no. 5 in the above manner reconciles the divergent needs and opposing stands of the parties and also realizes the beneficial purpose of compassionate appointment.

IX. Answers to the issues arising for consideration

34. The issues framed for consideration are answered accordingly.

X. Conclusions and Directions:

35. The entitlements of the parties determined in the preceding part of the narrative will be effectuated in the following sequence:

I. The respondents are directed to process the application of the petitioner for grant of appointment on compassionate grounds in light of observations made in this judgement.

II. Before the petitioner's appointment is made she will provide a sworn undertaking on affidavit to give 20% of her monthly salary to the respondent no. 5 on a regular basis as and when her salary is disbursed.

III. In case the respondent no. 5 declines to execute relevant documents including the letter of relinquishment in favour of the petitioner after being given an opportunity by the bank

authorities, the appointment of the petitioner shall be processed without the said documents.

IV. 20% of the salary of the petitioner shall be deducted every month and deposited in the bank account of respondent no. 5-Smt. Meena Gupta by the respondent bank.

V. The exercise shall be completed within two months from the date of receipt of a certified copy of this order.

36. It will be advisable for the Bank authorities to create appropriate rules for deciding the disputes of family members of the deceased relating to grant of compassionate grounds appointment consistent with this judgement.

37. The rules may provide for the following to ease the process of appointments which are embroiled in disputes or rival claims of various dependents of the deceased:

I. It would be imperative for respective parties to make a frank and true disclosure of all relevant facts like assets, liabilities and commitments necessary for determine their interse rights and entitlements to compassionate appointments and/or benefits flowing from it.

II. An undertaking shall be given on affidavit affirming the obligation of the appointee to maintain the other dependents in the manner provided by the competent authority.

III. To ensure smooth and unhampered credit of amounts from the salary of the appointee to the accounts of other dependents.

IV. Ensure opportunity of hearing to rival claimants.

V. Pass reasoned orders on the controversy.

38. The rules may also provide for mediation between the parties.

39. With the aforesaid observations the writ petition is disposed of.

Order Date :- 21.7.2025

Dhananjai Sharma