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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Decided on: 26.09.2025+ W.P.(C) 9252/2025
OMWATI

.....Petitioner

Through: Mr. Ranjit Sharma, Advocate.

versus

THE BANK OF MAHARASHTRA AND ANRRespondents

Through: Mr. V.K. Gupta, Advocate for R-1.

CORAM:**HON'BLE MR. JUSTICE PRATEEK JALAN****JUDGMENT**

1. By way of this writ petition under Article 226 of the Constitution, the petitioner seeks *ex-gratia* payment in lieu of compassionate appointment, following the death of her husband, who was employed as a *Daftari* in respondent No. 1 – Bank of Maharashtra [“the Bank”], when he died on 17.12.2014.

2. The petitioner applied for compassionate appointment on 16.04.2015. Upon rejection of her application, she sought *ex-gratia* payment in terms of a policy of the Bank dated 10.10.2007. As her application did not meet with favourable consideration, she has approached this Court under Article 226 of the Constitution.

3. I have heard Mr. Ranjeet Sharma, learned counsel for the petitioner, and Mr. V.K. Gupta, learned counsel for the Bank.

4. The claim for *ex-gratia* payment arises under a policy of the Bank dated 10.10.2007. This policy is in terms of a scheme of the Indian Banks' Association, and applies to cases where compassionate



appointment is not provided to the family members of deceased employees. The following provisions of the scheme are of relevance in the present case:

- a. The objective of the scheme is to provide relief to the family of a deceased employee, enabling them to tide over the sudden crisis brought about by the employee's premature death. This aligns with the objectives of a scheme for compassionate appointment, as held by the Supreme Court in *Umesh Kumar Nagpal v. State of Haryana*¹.
- b. The scheme applies to employees who die in harness, sustain injury while performing official duties, or seek premature retirement due to incapacitation before reaching the age of 55 years.
- c. The eligibility conditions are provided as follows:

“Eligibility for Ex-gratia Payment

1. In case as in para [A], ex-gratia amount will be paid to the family of the employee **if eligible and if requested for within 6 months from the date of death of the employee.** The family shall be in indigent or penurious circumstances. “Family” for this purpose would mean and include spouse, wholly dependent children [son including legally adopted son / unmarried daughter including legally adopted unmarried daughter]. In case of unmarried employee, parents who are wholly dependent on the employee will constitute “family”.
2. **Ex-gratia may be granted to the family of the employee subject to the ceilings specified below, if the monthly income of the family from all sources is less than 60% of the last drawn gross salary [net of taxes] of the deceased employee.”**²

- d. The scheme lays down the method of computation of the family's monthly income, as follows:

“Calculation of Monthly Income

- A. Terminal Benefits
 - a. Provident Fund
 - b. Gratuity

¹ (1994) 4 SCC 138.

² Emphasis supplied.



- c. Leave Encashment
- d. Any other amount paid under Bank's scheme[s]
Sub-total [A] _____
- B. Liabilities
Loans taken from bank and / or other financial
Institutions with the prior approval of the bank
Sub-total [B] _____
- C. Net corpus of terminal benefit [C=A-B] _____
- D. Investments
Deposits
NSCs
PPF
LIC Policies
Others
Sub-total [D] _____
- E. Details of movable property, if any, held [use
Separate sheet] & monthly income derived therefrom
- F. Details of immovable property, if any, held [use
Separate sheet] & monthly income therefrom
- G. Monthly income of the family from all sources
- Monthly interest at the Bank's maximum term
Deposit rate on the net corpus of terminal benefits [C]
 - Monthly income from investments [D]
 - Monthly income from movable & immovable property
[E & F]
 - Monthly income of dependent family members
[use separate sheet]
 - Any other monthly income _____
[incl. employee's pension / family pension]
- Total monthly income of the family** _____³

e. After providing for the maximum quantum of *ex-gratia* payment, depending upon the cadre to which the deceased employee belonged, the scheme provides for payment of such *ex-gratia* upon fulfilment of the conditions mentioned in paragraphs 2 and 6 below:

“2. 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, an *ex-gratia* amount calculated @ 60% of the last drawn gross salary [net of taxes] for each month of remaining

³ Emphasis supplied.



service of the employee [i.e. up to the age of superannuation in terms of extant service rules / conditions] at the time of his death / incapacitation subject to the cadre-wise ceiling of “maximum amount” mentioned under [1] above, will be payable.

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XXXX

XXXX

6. The ex-gratia relief under the above scheme is not an entitlement but may be granted at the sole discretion of the Bank looking into the financial conditions of the family and in deserving and eligible cases only.”⁴

5. The ground upon which the petitioner’s entitlement to *ex-gratia* payment has been rejected in the present case, is that the monthly income of the petitioner’s family exceeds 60% of the last drawn salary of her late husband. The counter affidavit filed by the Bank refers to the following facts, which are stated to have been taken from the application form filled by the petitioner and received by the Bank on 03.05.2018:

- a. **The gross salary of deceased employee late Mahavir Singh of the month preceding to date of death was Rs. 32,694/- and after deducting tax of Rs. 112/-, the gross salary (net of tax) was Rs. 32,582/-.**
The 60% of gross salary work out to Rs. 19,549/-
- b. The notional date of superannuation of deceased employee was 31.05.2016 and deceased was having remaining service of 17 months.
- c. **The total terminal benefits on account of PF (Rs.12,48,049/-). Gratuity (Rs.7,10,608/-) and Leave encashment (Rs.35,462/-) were aggregating Rs. 19,94,119/-.**
- d. The liabilities on account of Employee CC was Rs. 1,31,632/- and Society loan was Rs. 92,682/- thereby leaving Net Corpus of terminal benefits as Rs. 17,69,805/-
- e. The deceased employee had investments by way of LIC of Rs. 1,81,500/-, Karamchari Society of Rs. 43,700/- and others as Rs.1,40,235/- thereby making total of investments as Rs. 3,65,435/-
- f. **The monthly income at the Bank’s maximum term deposit rate on the Net corpus of terminal benefit @ 9.77% i.e., maximum ROI at**

⁴ Emphasis supplied.



the time of death comes to Rs. 14,109/- and monthly income from investment @ 9.77 % come Rs. 2975/- and the full monthly pension before commutation was Rs. 11,405/-

- g. **Thus, the total monthly income of the family from all sources was found to be Rs. 28,789/-**
- h. The guidelines provided that in case the monthly income of the family as calculated in terms of criterion laid down in the said circular is less than 60% of the last drawn gross salary (net of taxes) of the employee, an ex-gratia amount calculated @ 60% of the last drawn gross salary (net of taxes) for each month of remaining service at the time his death, will be payable.
- i. In the facts and circumstances of case, by applying the said policy guidelines, as the monthly income of the family from all sources was found to be not less than 60% of the last drawn gross salary (net of taxes), the petitioner was not eligible for ex-gratia amount.
- j. **Thus as the then present income of dependent family petitioner was more than 60% of last drawn gross Salary (Net of taxes) of the deceased employee, the claim of petitioner was not admissible.**⁵

6. As the petitioner has not filed a rejoinder despite opportunity, the factual averments in the counter affidavit remain uncontested.

7. Mr. Sharma's only argument was that the Bank ought not to have taken into account, notional interest upon terminal benefits and investments, as part of the family's income. He submitted that such a computation cannot be used to deprive the family of a deceased employee of *ex-gratia* payment, without any factual analysis as to whether the amounts received by the family, either on account of the deceased's terminal benefit or the family investments, in fact yielded any interest at all. Mr. Sharma further submitted that, in a situation where the terminal benefits were spent on discharge of various familial obligations, it would be unduly harsh to decline the benefit of *ex-gratia* payment to the family.



He also drew my attention to two judgments of the Punjab and Haryana High Court⁶, and one of the Himachal Pradesh High Court⁷, which support this position.

8. Before turning to the judgments of the High Courts which deal with this issue, the principles governing a scheme for *ex-gratia* payment may be considered. Such a scheme is analogous to a scheme for compassionate appointment. The objectives and interpretation of schemes for compassionate appointment have received the attention of the Supreme Court in several judgments. Suffice it to refer to two which were delivered in the last one year. In *Tinku v. State of Haryana*⁸, the Court held as follows:

*“14. The very basis and the rationale, wherever such policies are framed for compassionate appointment is with **an object to grant relief to a family in distress and facing destitution**, and thus an exception is culled out to the general rule in favour of the family of the deceased employee. This is resorted to by taking into consideration the services rendered by such employee and the consequent legitimate legal expectations apart from the sudden change in status and affairs of the family because of the unexpected turn of events, i.e. the loss of the sole bread earner.*

*15. The purpose, therefore, of such policies **is to give immediate succour to the family**. When seen in this conspectus, three years as has been laid down from the date of death of the employee for putting forth a claim by a dependant, which, includes attainment of majority as per the 1999 policy instructions issued by the Government of Haryana cannot be said to be in any case unjustified or illogical, especially when compassionate appointment is not a vested right.”⁹*

In *Canara Bank v. Ajithkumar G.K.*¹⁰, the Supreme Court distilled the

⁵ Emphasis supplied.

⁶ *Smt. Santosh Devi v. Oriental Bank of Commerce*, 2009 SCC OnLine P&H 4695 [hereinafter, “*Santosh Devi*”]; *Gayatri v. Punjab and Sind Bank*, 2020 SCC OnLine P&H 163 [hereinafter, “*Gayatri*”].

⁷ *Smt. Meena Devi v. Central Bank of India*, 2016 SCC OnLine HP 1476 [hereinafter, “*Meena Devi*”].

⁸ 2024 SCC OnLine SC 3292.

⁹ Emphasis supplied.

¹⁰ 2025 SCC OnLine SC 290 [hereinafter, “*Canara Bank*”].



following principles with regard to interpretation of such schemes:

*“11. Decisions of this Court on the contours of appointment on compassionate ground are legion and **it would be apt for us to consider certain well-settled principles, which have crystallized through precedents into a rule of law.** They are (not in sequential but contextual order):*

a) Appointment on compassionate ground, which is offered on humanitarian grounds, is an exception to the rule of equality in the matter of public employment [see General Manager, State Bank of India v. Anju Jain].

b) Compassionate appointment cannot be made in the absence of rules or instructions [see Haryana State Electricity Board v. Krishna Devi].

c) Compassionate appointment is ordinarily offered in two contingencies carved out as exceptions to the general rule, viz. to meet the sudden crisis occurring in a family either on account of death or of medical invalidation of the breadwinner while in service [see V. Sivamurthy v. Union of India].

d) The whole object of granting compassionate employment by an employer being intended to enable the family members of a deceased or an incapacitated employee to tide over the sudden financial crisis, appointments on compassionate ground should be made immediately to redeem the family in distress [see Sushma Gosain v. Union of India].

e) Since rules relating to compassionate appointment permit a side-door entry, the same have to be given strict interpretation [see Uttaranchal Jal Sansthan v. Laxmi Devi].

f) Compassionate appointment is a concession and not a right and the criteria laid down in the Rules must be satisfied by all aspirants [see SAIL v. Madhusudan Das].

g) None can claim compassionate appointment by way of inheritance [see State of Chattisgarh v. Dhirjo Kumar Sengar].

h) Appointment based solely on descent is inimical to our constitutional scheme, and being an exception, the scheme has to be strictly construed and confined only to the purpose it seeks to achieve [see Bhawani Prasad Sonkar v. Union of India].

*i) None can claim compassionate appointment, on the occurrence of death/medical incapacitation of the concerned employee (the sole bread earner of the family), as if it were a vested right, and **any appointment without considering the financial condition of the family of the deceased is legally impermissible** [see Union of India v. Amrita Sinha].*



j) An application for compassionate appointment has to be made immediately upon death/incapacitation and in any case within a reasonable period thereof or else a presumption could be drawn that the family of the deceased/incapacitated employee is not in immediate need of financial assistance. Such appointment not being a vested right, the right to apply cannot be exercised at any time in future and it cannot be offered whatever the lapse of time and after the crisis is over [see *Eastern Coalfields Ltd. v. Anil Badyakar*].

k) The object of compassionate employment is not to give a member of a family of the deceased employee a post much less a post for post held by the deceased. Offering compassionate employment as a matter of course irrespective of the financial condition of the family of the deceased and making compassionate appointments in posts above Class III and IV is legally impermissible [see *Umesh Kumar Nagpal v. State of Haryana*].

l) Indigence of the dependents of the deceased employee is the first precondition to bring the case under the scheme of compassionate appointment. If the element of indigence and the need to provide immediate assistance for relief from financial destitution is taken away from compassionate appointment, it would turn out to be a reservation in favour of the dependents of the employee who died while in service which would directly be in conflict with the ideal of equality guaranteed under Articles 14 and 16 of the Constitution [see *Union of India v. B. Kishore*].

m) The idea of compassionate appointment is not to provide for endless compassion [see *I.G. (Karmik) v. Prahalad Mani Tripathi*].

n) Satisfaction that the family members have been facing financial distress and that an appointment on compassionate ground may assist them to tide over such distress is not enough; **the dependent must fulfil the eligibility criteria for such appointment** [see *State of Gujarat v. Arvindkumar T. Tiwari*].

o) There cannot be reservation of a vacancy till such time as the applicant becomes a major after a number of years, unless there are some specific provisions [see *Sanjay Kumar v. State of Bihar*].

p) Grant of family pension or payment of terminal benefits cannot be treated as substitute for providing employment assistance. Also, it is only in rare cases and that too if provided by the scheme for compassionate appointment and not otherwise, that a dependent who was a minor on the date of death/incapacitation, can be considered for appointment upon attaining majority [see *Canara Bank (supra)*].

q) An appointment on compassionate ground made many years after the death/incapacitation of the employee or without due consideration of the financial resources available to the dependent of the



deceased/incapacitated employee would be directly in conflict with Articles 14 and 16 of the Constitution [see *National Institute of Technology v. Niraj Kumar Singh*].

r) Dependents if gainfully employed cannot be considered [see *Haryana Public Service Commission v. Harinder Singh*].

s) The retiral benefits received by the heirs of the deceased employee are to be taken into consideration to determine if the family of the deceased is left in penury. The court cannot dilute the criterion of penury to one of “not very well-to-do”. [see *General Manager (D and PB) v. Kunti Tiwary*].

t) Financial condition of the family of the deceased employee, allegedly in distress or penury, has to be evaluated or else the object of the scheme would stand defeated inasmuch as in such an eventuality, any and every dependent of an employee dying-in-harness would claim employment as if public employment is heritable [see *Union of India v. Shashank Goswami*, *Union Bank of India v. M. T. Latheesh*, *National Hydroelectric Power Corporation v. Nank Chand and Punjab National Bank v. Ashwini Kumar Taneja*].

u) The terminal benefits, investments, monthly family income including the family pension and income of family from other sources, viz. agricultural land were rightly taken into consideration by the authority to decide whether the family is living in penury. [see *Somvir Singh (supra)*].

v) The benefits received by widow of deceased employee under Family Benefit Scheme assuring monthly payment cannot stand in her way for compassionate appointment. Family Benefit Scheme cannot be equated with benefits of compassionate appointment. [see *Balbir Kaur v. SAIL*]

w) The fixation of an income slab is, in fact, a measure which dilutes the element of arbitrariness. While, undoubtedly, the facts of each individual case have to be borne in mind in taking a decision, the fixation of an income slab subserves the purpose of bringing objectivity and uniformity in the process of decision making. [see *State of H.P. v. Shashi Kumar*].

x) Courts cannot confer benediction impelled by sympathetic consideration [see *Life Insurance Corporation of India v. Asha Ramchandra Ambekar*].

y) Courts cannot allow compassionate appointment dehors the statutory regulations/instructions. Hardship of the candidate does not entitle him to appointment dehors such regulations/instructions [see *SBI v. Jaspal Kaur*].

z) An employer cannot be compelled to make an appointment on compassionate ground contrary to its policy [see *Kendriya Vidyalaya*



Sangathan v. Dharmendra Sharma].

It would be of some relevance to mention here that all the decisions referred to above are by coordinate benches of two Judges.”¹¹

9. Applying these principles to the facts of the present case, I am of the view that there is no illegality in the Bank’s proceeding on the basis of notional interest income which the family would have derived from its investments and from the terminal benefits of the deceased employee. A scheme for compassionate appointment, as held by the Supreme Court, is required to be implemented strictly on its own terms. The same principle must be applied to schemes for *ex-gratia* payment, which are analogous to compassionate appointment policies. The policy in the present case expressly provides for consideration of interest on terminal benefits on a notional basis. There is no challenge to the terms of the policy itself in the writ petition. The validity of the scheme’s terms is therefore not directly in issue.

10. The objective of the scheme is to provide immediate relief from indigence, without constituting a right or entitlement. This requires a comprehensive analysis of the family’s financial situation in the immediate aftermath of the death of the employee. In this connection, reference may be made to paragraphs 11(e), 11(f), and 11(l) of *Canara Bank*, as set out in paragraph 8 hereinabove. The Bank, in my view, was entitled to formulate a policy which conforms to these objectives.

11. While evaluating the financial condition of the family, income from its assets is certainly a relevant consideration. In *Canara Bank*, while noticing that payment of terminal benefits cannot be treated as



substitute for providing employment assistance, the Court has specifically held that retiral benefits received by the heirs of the deceased are required to be considered in determining whether the family has been left in a state of penury.¹²

12. As the terminal benefits also have to be taken into account while arriving at this determination, the question is whether income accruing therefrom can be calculated on a notional basis, or only on the basis of what the family has actually earned from the investments and terminal benefits made available to it. At the point of time when this issue is required to be considered, i.e. soon after the death of the employee, the income from terminal benefits would, in my view, have to be taken into account on an estimate, rather than actuals. As the objective of the scheme itself is to provide relief in the immediate aftermath of the death, I am of the view that insistence upon an analysis of whether the family has actually earned interest on the accumulated assets and terminal benefits, is impracticable. In the present scheme, for example, an application is required to be made within six months of the death of the employee. Whether or not the family actually earns interest on the terminal benefits received is not a matter which would be known at that time. The analysis at a later point of time, contingent upon whether the family has actually earned interest on the said amount, is inconsistent with the immediacy of the required action.

13. The question of such a factual analysis can arise only if the matter is being assessed after a lapse of some time since the death of the

¹¹ Emphasis supplied.

¹² *Canara Bank*, paragraphs 11(s), 11(t), and 11(u).



employee. For example, in the present case, the writ petition has been filed seven years after the petitioner's request for *ex-gratia* payment was denied. In such circumstances, if the amounts available to the family have already been spent in the interregnum, it would be unreasonable to expect the Bank to disburse *ex-gratia* payment at this stage. This would also defeat the purpose of providing immediate relief to the family.

14. The exclusion of a notional calculation, and insistence upon consideration only on actual interest income also, in my view, lacks objectivity. Different families, with varying needs and desires, may have expended the terminal benefits received or their accumulated investments. It is not possible to identify the classes of expenditures, or the quantum thereof, which would be regarded as legitimate, for example marriage or education of children, as against those which the employer considers unnecessary or unduly profligate. These inchoate uncertainties would lead to several subjective and value-based judgments by employers. In my view, an objective system which can be implemented at the relevant time by estimating, on a notional basis, the income which the family is in a position to earn, is far preferable to this alternative.

15. Further, the expenditure may well have been necessary even if the employee had not, unfortunately, passed away in harness. In such circumstances, where money is, for example, spent on education or marriage of the children, those expenses would have had to be met, even if the employee had served until his superannuation. To exclude such expenditure while determining whether a family required relief from penury arising from the employee's death, is in my view, unsustainable.

16. The final factor which weighs in my mind is the practical



consequences of requiring consideration only of actual interest income earned on the terminal benefits. A family which has saved the amount received by it, and invested the amount wisely, would earn income from the investment. This would be counted towards the family's income, and disqualify it from claiming under the scheme. In contrast, a family which has spent the amount received on any account, would not earn investment returns, and its income will be accordingly diminished. Such a family would be entitled to relief under the scheme. Without any comment upon the propriety of such expenditure, it does not commend to me, that a prudent family that saves and invests wisely, be disincentivised from doing so.

17. For the aforesaid reasons, I am of the view that the provision in the policy in question, for computation of the family's income, including notional income from terminal benefits, is valid.

18. Mr. Sharma is right in drawing my attention, however, to the judgment of the Punjab and Haryana High Court in *Santosh Devi*, which holds that notional interest cannot be added if it has not actually accrued to the family. This decision was upheld by the Division Bench in *Oriental Bank of Commerce v. Smt. Santosh Devi*¹³, although the Division Bench has not expressly addressed this question. The judgment of the learned Single Judge in *Santosh Devi* was followed by the same High Court in *Gayatri*, as well as by the Himachal Pradesh High Court in *Meena Devi*. Although, in *Gayatri*, the Court noticed that the scheme in question did not provide for the computation of monthly interest on notional basis at all, and held that, in the absence of such a component being provided in



the express terms of the scheme, the concerned Bank could not incorporate such a provision, the Court also followed the ratio in *Santosh Devi*. With great respect, I am unable to agree with the view taken in the aforesaid judgments, for the reasons stated above.

19. There being no other challenge to the Bank's actions, the petitioner is not eligible for the grant of *ex-gratia* payment in the present case.

20. The writ petition is, therefore, dismissed, but without any order as to costs.

PRATEEK JALAN, J

SEPTEMBER 26, 2025

'PV/Khushi'

¹³ 2014 SCC OnLine P&H 7766.