

## IN THE SUPREME COURT OF INDIA

## CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.9730 OF 2011

State Bank of India &amp; Ors.

.....Appellants

Versus

Surya Narain Tripathi

.....Respondents

## JUDGMENT

H.L.GOKHALE, J.

(1) This appeal seeks to challenge the judgment and order dated 7th February, 2006 rendered by a Division Bench of the High Court of Allahabad in Special Appeal No.318 of 2004 which confirmed the judgment of a learned Single Judge dated 3rd August, 2014 in Writ Petition No.5045 of 1999.

(2) Heard Mr. Vikas Singh learned senior counsel appearing on behalf of the appellants and Mr. Sunny Choudhary learned counsel appearing on behalf of the respondent.

(3) The brief facts of this appeal are that the one B.P. Tripathi the father of the first respondent was working in the State Bank of India from 27.12.1969 and he died while in service on 19.1.1998 after completing more than 28 years of service. At that time he was working as Assistant Manager. The respondent No.1 who is his son applied for a job on compassionate basis and his application was turned down by the Bank which led to the writ petition. The writ petition was allowed by the learned Single Judge and the appeal of the Bank therefrom was dismissed. Hence this appeal by special

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leave.

(4) It is submitted by Mr. Vikas Singh learned senior counsel appearing for appellants that earlier in the year 1979 there was a different scheme which was prevalent in the matter of compassionate appointment, and amongst others there was a provision for an interview under clause 7.5(f) of the Hand Book on Staff Matters. In 1994 this Court rendered a judgment in Umesh Kumar Nagpal vs. State of Haryana & Ors. reported in 1994 (4) SCC 138 wherein it was laid down that the object of compassionate appointment is meant to enable the bereaved family of the deceased employee to face the sudden financial crisis and not to provide employment as such. This led the Bank to frame another policy in the year 1998. This judgment is referred in the new policy and it is provided therein as an objective that when the Bank is satisfied that the financial condition of the family is such that it requires employment that compassionate appointment will be offered.

(5) It is the case of the Bank that as far as the present appointment is concerned all relevant factors were considered. It was noticed that the salary of the deceased at the time of his death was Rs.8,970/-. His family was given an amount of Rs.5,98,092/- plus 0.25 lakh as terminal benefits. If the said amount was to be invested properly, it would get interest at least of Rs.5,000/- p.m. This was apart from the family pension of Rs.4208+Admissible

D.A.

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The Bank, therefore, took the view that the circumstances do not warrant the compassionate appointment for the respondent which was applied for.

(6) Mr. Vikas Singh learned senior counsel pointed out that this Court has specifically gone into these aspects in the case of Union Bank of India & Ors. vs. M.T. Latheesh reported in 2006 (7) SCC 350 wherein the benefits

which would be received by the deceased employee were gone into and on that footing the Court came to the conclusion that if the benefits are comparable, then there is no case for comparable appointment. The same view has been repeated in the case of appellant State Bank itself in the case of State Bank of India & Ors. vs. Jaspal Kaur reported in 2007 (9) SCC 571.

(7) Mr. Sunny Choudhary counsel appearing for the respondent, on the other hand, submitted that this was a hard case, and the deceased has left behind a large family. Apart from the widow, he had two sons and five daughters and three of them were unmarried. Considering this fact it was expected that the Bank should provide appointment to one of the members of the family when the main bread earner had passed away. We relied upon the judgment of this Court in Govind Prakash Verma vs. Life Insurance Corporation of India & Ors. reported in 2005 (10) SCC 289 where a view has been taken that the compassionate appointment cannot be refused on the ground that

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another member of the family had received appropriate employment and the service benefits were adequate. We may humbly state that this view runs counter to the view which was taken earlier in the case of Umesh Kumar Nagpal which was not cited before the Court in Govind Prakash (supra). The subsequent two judgments which were referred above also take the same view as in Umesh Nagpal (supra). Mr. Vikas Singh has drawn our attention to the judgment in the case of State Bank of India & Anr. vs. Somvir Singh reported on 2007 (4) SCC 778 where the 1998 scheme has been considered.

(8) In all the matters of compassionate appointment it must be noticed that it is basically a way out for the family which is financially in difficulties on account of the death of the bread earner. It is not an avenue for a regular employment as such. This is in fact an exception to the provisions under Article 16 of the Constitution. That being so, if an employer points out that the financial arrangement made for the family subsequent to the death of the employee is adequate, the members of the family cannot insist that one of them ought to be provided a comparable appointment. This being the principle which has been adopted all throughout, it is difficult for us to accept the submission made on behalf of the respondent.

(9) As stated earlier, the deceased left behind a large family. The fact however, remains that by now 15 years have gone since then.

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Besides the Bank has made appropriate financial provision at par with similar arrangement that was noted by this Court in the case of M.T. Latheesh (supra). Therefore it is not possible for us to say that the Court could have directed the Bank to consider compassionate appointment. In the circumstances, the appeal is allowed. The judgment rendered by the learned Single Judge as well as by the Division Bench are set aside. The writ petition No.5045 of 1999 filed by the respondent shall stand dismissed.

(10) Although we are allowing this appeal, Mr. Vikas Singh very fairly stated that looking at the difficulties of the family, and that the respondent was required to go through the litigation upto the Supreme Court, the Court may consider granting appropriate litigation expenses to the respondent. We quite appreciate this gesture and order that the appellant Bank will pay an amount of Rs.1 lakh to the respondent on this count. However, we make it clear that this order on costs is made in consideration of the special facts of this case.

.....J.  
( H.L.

GOKHALE )

.....J.

(KURIAN JOSEPH )  
NEW DELHI;  
FEBRUARY 11, 2014.

ITEM NO.101

COURT NO.10

SECTION XI

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 9730 OF 2011

STATE BANK OF INDIA & ORS.

Appellant (s)

VERSUS

SURYA NARAIN TRIPATHI

Respondent(s)

Date: 11/02/2014 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE H.L. GOKHALE  
HON'BLE MR. JUSTICE KURIAN JOSEPH

For Appellant(s)

Mr. Vikas Singh, Sr.Adv.  
Mr. Sanjay Kapur, Adv.  
Ms. Priyanka Das, Adv.  
Mr. Anmol Chandan, Adv.

For Respondent(s)

Mr. Sunny Chowdhary, Adv.  
Mr. C.D. Singh, Adv.

UPON hearing counsel the Court made the following  
O R D E R

The appeal is allowed in terms of the signed judgment.

[Usha Bhardwaj]  
A.R-cum-P.S.

[Sneh Lata Sharma]  
Court Master

Signed reportable judgment is placed on the file.