

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1880 OF 2015

(Arising out of S.L.P. (C) No.35380 of 2011)

Syndicate Bank and Others

Appellant(s)

Versus

Smt. N. Premalatha and Others

Respondent(s)

CIVIL APPEAL NO.1881 OF 2015

(Arising out of S.L.P. (C) No.29866 of 2011)

O R D E R

Leave granted.

In these appeals, by special leave, the assail is to the common judgement and order passed in Writ Petition No.458 of 2001 and Writ Appeal No.624 of 2003. The order passed in the writ petition has been challenged in civil appeal arising out of S.L.P.(C) No.29866 of 2011 and the judgement in Writ Appeal No.624 of 2003, preferred by the Syndicate Bank, the appellant herein, has been called in question in civil appeal arising out of S.L.P.(C) No.35380 of 2011. As far as N. Premalatha is concerned, the learned Single Judge has directed for compassionate appointment and, therefore, the Bank was compelled to file the writ appeal. The writ petition was directly filed before the Division Bench. The Division Bench, after hearing the learned

counsel for the parties, has held as follows:

"We do not find any merit in W.A. No.624 of 2003 and it is accordingly dismissed. W.P. No.458 of 2001 is allowed and the impugned proceedings Ref. No.Bh/Sin/2000, dated 11.7.2000 is set aside with a direction to consider the case of the respective petitioners in both the cases for appointment on compassionate ground. No costs."

It is submitted by Mr. A.B. Dial, learned senior counsel appearing for the appellant-Bank, that as far as N. Premalatha is concerned, she could not have sought for compassionate appointment as her husband was imposed with a punishment in a disciplinary proceeding on 6<sup>th</sup> March, 1995. It is urged by him that despite the same, the appellant-Bank recommended her case to the Union of India vide letter dated 7<sup>th</sup> December, 1996, explaining the entire situation. The Union of India vide communication dated 7<sup>th</sup> January, 1997, declined to accede to the recommendation by stating thus:

"Sub: Appointment of Smt. N. Premalatha, w/o Late Shri N.R. Subramanian in the clerical cadre on compassionate grounds.

Sir,

I am directed to refer to your letter NO.PD:HRDD:0088:909:768:4594 dated the 7<sup>th</sup> December, 1996 on the above mentioned subject and to say that the matter has been examined and Government regrets its inability to accede to the proposal of the Bank for appointment of Smt. N. Premalatha in the clerical cadre on compassionate grounds.

Yours faithfully,

sd/-  
(C.B. Prasad)  
Under Secretary to the  
Govt. of India"

Learned senior counsel has also brought to our notice, the letter circular dated 20<sup>th</sup> February, 1991, issued by the Ministry of Finance, Department of Economic Affairs (Banking Division), Government of India. In paragraph 2 and 3 of the same, it has been stated thus:

"It has been brought to the notice of Government that the same cases disciplinary proceedings were pending at the time of death of an employee. It has now been decided that in cases where disciplinary proceedings were pending or were being contemplated at the time of the death of the employee or the employee was proceeded against before death, the bank will be required to refer all such cases to Government with dull details namely nature of misconduct if causing loss to the bank, punishment awarded/proposed to be awarded/usually warranted for such misconduct etc., and only with the approval of the Government, compassionate appointment can be provided to the dependants of such deceased employees. Bank are advised not to decide such cases on their own despite the fact that all the usual conditions for such appointment are satisfied.

I am also to state that some banks have approached the Government for allowing appointment of widows who are 8<sup>th</sup> pass (not matriculate) in clerical cadre on compassionate grounds. government have re-examined the issue and I am directed to advise the public sector banks to follow the instructions contained in this Division's

letters of even number dated 30.3.90 and 20.5.90 in terms of which the minimum qualification for recruitment to clerical cadre should be pass in SCC/SSLC/Matriculation for all types of dependants including widows."

In the present case, as the Union of India has declined despite the recommendation of the Bank and that the punishment was imposed, we are of the considered opinion that the High Court should not have directed the appellant-Bank to reconsider the matter for compassionate appointment. Such a direction could not have been issued in law.

As far as T.A.M. Veera is concerned, the Division Bench of the High Court has not referred to the scheme of the Bank. Learned senior counsel has brought the scheme on record, namely, Scheme for Appointment of Defendants of the Deceased Employees on Compassionate Grounds. The said scheme has come into force with effect from January, 1999, and, therefore, T.A.M Veera could not have availed the benefit of compassionate appointment under the scheme. As the wife of the deceased was working as a regular employee of the railways, submits learned senior counsel, she was also not entitled for the benefit under the scheme. Be that as it may, that was not the controversy before the High Court.

In view of the aforesaid premises, we are of the considered opinion that the High Court was not justified in issuing direction for conferring of benefit of compassionate appointment in both the cases and, accordingly, both the appeals are allowed and the common judgement is set aside. There shall be no order as to costs.

.....J.  
(Dipak Misra)

.....J.  
(Praffula C. Pant)

New Delhi;  
February 13, 2015.

ITEM NO.39

COURT NO.6

SECTION XIIA

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No.35380/2011

(Arising out of impugned final judgment and order dated 07/04/2011  
in WP No. 624/2003 passed by the High Court of A.P. at Hyderabad)

SYNDICATE BANK & ORS.

Petitioner(s)

VERSUS

N.PREMALATHA & ORS.

Respondent(s)

(With interim relief and office report)

WITH S.L.P.(C) No.29866/2011

(With interim relief and office report)

Date: 13/02/2015 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DIPAK MISRA

HON'BLE MR. JUSTICE PRAFULLA C. PANT

For Petitioner(s) Mr. A.B. Dial, Sr. Adv.  
Ms. Aakriti Jain, Adv.  
Mr. Shanker Chhabra, Adv.  
Mr. Rajiv Nanda, AOR

For Respondent(s) Mr. B. Venkata Ratnam, Adv.  
Mr. B. Ramana Murthy, AOR

Ms. Purnima Bhat, AOR

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

Leave granted.

The appeals are allowed in terms of the signed  
order.

(Chetan Kumar)  
Court Master

(H.S. Parasher)  
Court Master

(Signed order is placed on the file)