



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.8383/2023

Pankaj S/o Shivnath Nikhar
Aged 31 years, Occupation Nil,
R/o Plot No.43, Middle Ring Road,
Gangavihar Colony, Nandanvan,
Nagpur 440 009.

... Petitioner

- Versus -

1. Union of India,
through its Secretary,
Finance Department, Vitta Mantralaya,
Jeevan Deep Building, Sansad Marg,
New Delhi 110 001.
2. Chairman-Cum-Managing Director
Canara Bank, 112, J C Road,
Bengaluru 560 002 (Karnataka).
3. Assistant General Manager,
Canara Bank, HRM Section,
Circle Office Shivaji Road,
Near Mangala Talkies, Shivaji Nagar,
Pune 411 005.
4. Senior Branch Manager,
Canara Bank, Gandhi Bagh
Main Branch, Sardakunj, 84,
Central Avenue, Sewasadan Chowk,
Gandhibagh, Nagpur 440 018

... Respondents

Mr. M.V. Samarth, Senior Advocate with Mr. Rajendra M. Fating,
Advocate for the petitioner.

Mr. P.V. Navlani, Advocate for respondent No.1.

Mr. N.S. Warulkar, Advocate for respondent Nos.2 to 4.

CORAM: NITIN W. SAMBRE & MRS.VRUSHALI V. JOSHI, JJ.

DATED: 26.3.2025.

JUDGMENT (Per Mrs. Vrushali V. Joshi, J.)

Rule. Rule made returnable forthwith. Heard finally
with the consent of learned Advocates for the parties.

2. The grievance of the petitioner is that he is denied
appointment on compassionate ground.

3. The father of the petitioner Mr. Shivnath Ghuvaji
Nikhar was appointed as a 'Clerk' with the Syndicate Bank on
1.12.1983 and due to pandemic of Covid-19 he died in harness on
2.5.2021.

4. The petitioner submitted an application dated
6.7.2021 to the Deputy General Manager, Canara Bank, Pune

seeking appointment on compassionate ground. The said application was forwarded to respondent No.4 - Senior Branch Manager, Canara Bank, Gandhibagh Branch, Nagpur on the very same day.

5. Respondent No.3-Assistant Manager, Canara Bank, Pune, kept the matter pending for a period of two years. The Syndicate Bank was amalgamated/merged with Canara Bank on 4.3.2020. During this time, the policy of the Canara Bank governed the appointments on compassionate ground.

6. Clause 6 of the policy of Canara Bank reads as under:-

“6. Eligibility

6.1 The family is indigent and deserves immediate assistance for relief from financial destitution; and

6.2 Applicant for compassionate appointment should be eligible and suitable for the post in all respects under the provisions of the relevant Recruitment Rules.”

7. On bare perusal of clause 6 of the policy of Canara Bank, on the basis of which the appointments on compassionate ground are to be made, it appears that there is no mention of the requirement that the total income of the family from all sources must be below Rs.35,000/- (Thirty Five Thousand) which condition applies to the eligibility criteria of the Syndicate Bank. Here, in case of Canara Bank the family must be indigent and in need of immediate financial assistance along with the fulfilment of the relevant qualification of the applicant.

8. Learned Senior Advocate for the petitioner submitted that after deducting total liabilities of Rs.62,01,208/- from the gross benefits received of Rs.53,19,987/- a liability of Rs.8,81,221/- was balance against the petitioner. Therefore, it is explicitly clear that financial condition of the petitioner is not satisfactory. He further contended that the petitioner is eligible for any post in clerical cadre, he being a post graduate i.e. M.Sc. in

Chemistry and overall income of his family including the family pension was Rs.24,802/- at the time of application.

9. Learned Senior Advocate for the petitioner relied on the judgment of this Court in Writ Petition No.3512/2022 (Ashwin Gourishankar Kokodde V/s. Union of India and others) delivered on 26.4.2023 wherein in para 22 it is held that since the claim for compassionate appointment shall be considered on the touchstone of the clause 6 of Unified policy of Canara Bank unless the person seeking it is otherwise ineligible to hold the post, the appointment order of the said person shall be issued within the next eight weeks.

10. The main contention of the petitioner is that both the brothers of petitioner are living separately with their families abroad and they are not rendering any financial assistance to the petitioner and his family.

11. Learned advocate for the respondents claimed that the total outstanding liability from loans and advances by the deceased employee was Rs.18,95,011.83/- after adjusting the liabilities. The mother of the petitioner was sanctioned monthly pension of Rs.51,260/-. He further submitted that two brothers of the petitioner are working abroad and earning \$4,704.80 (for fifteen days) and \$1,177.08 (for fifteen days). Therefore, the competent authority arrived at the conclusion that the petitioner is not indigent and he does not deserve any immediate financial assistance since there were no mitigating factors to consider the request for appointment on compassionate ground of the petitioner.

12. Learned advocate for the respondents strongly relied on the case of *State of Himachal Pradesh and another V/s. Shashi Kumar* reported in (2019) 3 SCC 653 in which the Hon'ble Apex Court observed as under:-

“.....receipt of family pension would be one of the criteria which would be taken into consideration in

determining as to whether the family of the deceased employee is in indigent circumstances.”

13. It is the argument of learned Advocate for the respondents that the peculiar facts and circumstances in the case of Ashwin Gourishankar Kokodde (supra) relied upon by the petitioner will not be applicable in the present matter since in the aforesaid case the employee died before the amalgamation of the Banks when the rules of policy of the Syndicate Bank were prevalent at the time of appointment on compassionate ground. While in the case in hand, the father of the petitioner has died after the amalgamation of the Banks. Therefore, the competent authority has rightly rejected the application of the petitioner.

14. We have heard learned Senior Advocate for the petitioner, learned Advocate for respondent No.1 and learned Advocate for respondent Nos.2 to 4 and we have also gone through the record.

15. Rejection of the application of petitioner by the Canara Bank seeking the appointment on compassionate ground is the subject matter of challenge in this writ petition.

16. On a perusal of the impugned communication, it is clear that Canara Bank concluded that there was no indigent circumstances and the case of the petitioner did not fall within the parameters of its policy and that the financial condition of the family of petitioner is satisfactory. There are no mitigating factors to consider the request for compassionate appointment of the petitioner.

17. The respondents have filed their affidavits. According to the respondents two sons of the deceased are working abroad and earning \$ 4704.80 for 15 days and \$ 1177.08 for 15 days. The family of the petitioner is receiving monthly family pension of Rs.51,260/- and that the petitioner has completed post graduation, is a major and capable of earning.

The authority has not found any indigent ground necessitating immediate assistance or relief for financial restitution. It appears that there is a conflict between the Policies which would be applicable to the father of the petitioner after amalgamation of Syndicate Bank into Canara Bank.

18. The only significant difference in policy of Syndicate Bank and Canara Bank is that the policy of Canara Bank mentions "indigent person" whereas the policy of Syndicate Bank mentions the limit of Rs.35,000/- per month income of the family from all sources to be the main basis for the appointment on compassionate ground with other relevant conditions. The financial benefits received by the family of the deceased are mentioned in the affidavit filed by the respondents. According to respondents, though the family of the petitioner had spent money on the medical treatment of the deceased, the entire amount was recovered as they had a medical insurance and said amount was paid by the insurance company. One brother of the petitioner is

staying at New Jersey in the U.S.A. and the other brother is also working with a multi-national company abroad. Hence the contention of the petitioner that his family earns only Rs.24,802/ per month is not correct and is a misleading statement.

19. The petitioner has stated in his pleadings that the brothers who are staying abroad lost their jobs during Covid and they are not supporting the petitioner and his mother financially as they have a separate family.

20. Instead of going into the reasoning given by Canara Bank for denying the compassionate appointment to the petitioner, it is a fact that though the retiral benefits are paid to the family of the deceased, it can neither be a decisive factor nor the income of the brothers who are staying abroad can be considered for deciding the claim of the petitioner on compassionate ground.

21. The main ground for the consideration of claim of the petitioner is whether the claim of compassionate appointment is required to be addressed on the basis of the policy of Syndicate Bank which was holding the field at the relevant time.

22. Though the father of the petitioner died after amalgamation of the Syndicate Bank into Canara Bank, as per notification dated 4.3.2020 it is specifically clarified that Board of Transferee Bank shall ensure that “the interest of all transferring employees and officers of Transferor Bank are protected”. Clause 14 and 15 further clarifies this position. Because of merger of Syndicate Bank into Canara Bank the services of the petitioner’s father have been transferred into Canara Bank from the year 2020 and he was working with respondent No.4 Canara Bank, Gandhibagh, Nagpur. The service conditions of the father of petitioner was, however, protected under the Scheme of Amalgamation. He died in harness on 2.5.2021. In accordance with the policy of Syndicate Bank wherein the service of the

petitioner was of substantive nature and all service conditions were applicable in accordance with the policy framed by Syndicate Bank so also policy framed by the Canara Bank was prevalent at the time of death of father of the petitioner, the petitioner comes within the parameters of Canara Bank. Clause 13 of the Amalgamation of Syndicate Bank into Canara Bank 2020 published vide notification dated 4.3.2020 specifically clarifies the same. The condition subject to which the Syndicate Bank was amalgamated into Canara Bank protects the service conditions of the employees of the erstwhile Syndicate Bank. The protection of the service conditions of employees of the erstwhile Bank *ipso facto* renders the stand of the Canara Bank unjustified and more particularly the reliance placed on the policy of the Canara Bank is untenable. In our considered view the petition succeeds on the short ground of the touchstone of clause 6 of the policy of Syndicate Bank under which the service conditions of the deceased were governed. For this purpose, learned Senior Advocate for the petitioner has relied on the

judgment of this Court in Ashwin Gourishankar Kokodde (supra) wherein the same issue is dealt with.

23. Learned Advocate for the respondents has stated that the observations in said petition are not applicable to this case as at the time of death, the deceased was working in the Canara Bank and there was amalgamation even before his death.

24. On a perusal of the Amalgamation Scheme, particularly clauses 13 and 14 of the Notification dated 4.3.2020, it is clear that the services of the father of petitioner were governed by the policy of Syndicate Bank. Moreover, the Canara Bank was also having the same policy for compassionate appointment. Only criteria of the income of Rs.35,000/- per month from all sources is not specifically mentioned in the policy of the Canara Bank. Though the brothers of the petitioner are doing job abroad, they are not financially supporting the petitioner and his mother. Considering the income of the mother

of petitioner i.e. the family pension which was Rs.24,802/- at the time of filing of application, the petitioner is entitled for the relief of compassionate appointment.

25. For the aforesaid reasons, we quash and set aside the impugned communication dated 18.9.2023.

We further direct the respondents that the claim of the petitioner for compassionate appointment shall be considered on the touchstone of clause 6 of the Unified Policy and unless the petitioner is otherwise found ineligible to hold the post, the appointment order shall be issued to the petitioner within next 8 weeks from the date of production of this judgment and order.

Writ petition is allowed in the above terms.

(MRS.VRUSHALI V. JOSHI, J.)

(NITIN W. SAMBRE, J.)