

**IN THE HIGH COURT OF ANDHRA PRADESH : AMARAVATI**  
**HON'BLE MR. JUSTICE PRASHANT KUMAR MISHRA, CHIEF JUSTICE**  
**&**  
**HON'BLE MR. JUSTICE SUBBA REDDY SATTI**

**WRIT APPEAL NO.1436 of 2014**

*(Through physical mode)*

The Chaitanya Godavari Grameena Bank,  
H.No. 1000, D. V. Road, Madhavaram, Hyderabad,

... Appellant

Versus

K. Ravi Kumari,

... Respondent

Counsel for the appellant : Dr. K. Lakshmi Narasimha,  
learned standing counsel

Counsel for respondent : M. Pitchaiah,  
learned counsel.

**JUDGMENT (ORAL)**

**Dt: 08.03.2022**

*(per Mr. Justice Subba Reddy Satti)*

This intra-Court appeal is presented against the order, dated 21.08.2013 in W.P.No.1588 of 2009. Writ Petition was filed seeking to issue Writ of Mandamus declaring the action of the appellant/respondent in directing to submit succession certificate and to get a direction from the appropriate authority to get the benefit of compassionate appointment in its letter dated 16.07.2007 and immediately directing the respondent/writ

petitioner to apply for payment of ex-gratia in lieu of compassionate appointment by its letter dated 27.07.2007 as illegal and arbitrary. The learned Single Judge set aside the order, dated 27.07.2007 passed by Chairman of appellant bank and further directed the appellant bank to consider the request of the writ petitioner to appoint her on compassionate grounds as Sweeper-cum-Messenger.

2. Brief facts germane to consider the issue are narrated as follows:

The husband of the writ petitioner, K. Sudhakar, former Branch Manager of Chaitanya Godavari Grameena Bank (hereinafter referred to as 'bank') died in harness on 29.05.2006 leaving behind the writ petitioner (wife), and two children through his first wife i.e. one daughter and one son. After the death of the first wife, said Sudhakar married writ petitioner and they have no issues out of their wedlock. The writ petitioner passed eight class and in view of the death of her husband, she made an application on 01.06.2007 to the authorities seeking appointment on compassionate grounds as Sweeper-cum-Messenger. The bank authorities addressed a letter, dated 16.07.2007 directing the writ petitioner to submit succession certificate and to get direction from the appropriate authority to get benefit from the bank.

By letter No.099/3/G/28, dated 27.07.2007, the Chairman of the bank informed the writ petitioner that her request for appointment as Sweeper-cum-Messenger in the bank on compassionate grounds could not be considered in the light of the new scheme i.e. payment of ex-gratia in lieu of appointment on compassionate grounds. Aggrieved by the same, the writ petitioner filed the writ petition. Learned Single Judge allowed the writ petition by order, dated 21.08.2013.

3. The above intra-Court appeal was filed with a delay of 269 days and the same was condoned by Division Bench of composite High Court of Andhra Pradesh at Hyderabad by order, dated 19.11.2014. The Division Bench by order, dated 17.07.2014 passed in W.A.M.P.No.2279 of 2014 granted interim suspension.

4. Heard Dr. K. Lakshmi Narasimha, learned standing counsel for the appellant-bank and Mr. M.Pitchaiah, learned counsel for the writ petitioner.

5. Learned standing counsel for the bank would contend that though the husband of the respondent/writ petitioner died on 29.05.2006, in view of the change in the scheme, the request made by the respondent/writ petitioner for her appointment on compassionate grounds was negated. He further contended that the respondent/writ petitioner was directed to submit the required information to the head office through Kalipatnam branch for payment of ex-gratia, as per the eligibility in the light of new scheme. Learned standing counsel further contended that 'the revised model scheme for payment of ex-gratia amount in lieu of appointment on compassionate grounds and appointment of dependents of the deceased employees on compassionate grounds' (herein after referred to as 'new scheme') came into force retrospectively w.e.f 31.07.2004 and applications pending as on 31.07.2004 would be considered in accordance with revised scheme. Thus, it was contended that the order passed by learned Single Judge is liable to be set aside.

6. Learned counsel appearing on behalf of the respondent/writ petitioner would contend that on the date of death of the husband of the respondent/writ petitioner, the earlier scheme for appointment of the

dependents of deceased employees on compassionate grounds in regional rural banks, came into operation from 01.10.1982 is subsisting. As per the scheme, writ petitioner's representation for considering her request for appointment in the post of Sweeper-cum-Messenger on compassionate grounds could have been considered positively. Thus, the counsel requested the Court to dismiss the writ appeal.

7. Both the learned counsel relied upon **Secretary to Govt. Department of Education (Primary) and others v. Bheemesh Alias Bheemappa**<sup>1</sup>. The learned standing counsel for the appellant would contend that the Hon'ble Apex Court referred the matter to a larger Bench in view of difference of opinion, as to the criteria to consider the application i.e date of death or date of consideration of application, in State Bank of India Vs Sheo Shankar Tewari and prayed to differ the order till the Hon'ble Apex Court decides the issue.

8. Learned counsel for the respondent would contend that notwithstanding the reference, the Hon'ble Apex Court in Bheemesh's case after noticing the reference, held that the applicability of a modified scheme should depend only upon a determinant and fixed criteria such as the date of death and not the indeterminate and variable factor. Thus, prayed to dismiss the writ appeal.

9. The scope of interference in intra-Court appeal under clause 15 of the Letters Patent Act is limited, unless the findings recorded by the learned single Judge are illegal, irregular or perverse.

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<sup>1</sup> 2021 SCC OnLine SC 1264

10. In **Seshaiah v. South Central Railway**<sup>2</sup>, it was held that in an intra-Court appeal interference in the order of the learned single Judge is not as a matter of course and substitute its opinion except where the discretion has been shown to have been exercised arbitrarily.

11. It is admitted fact that the husband of the respondent/writ petitioner died on 29.05.2006 and the respondent/writ petitioner made representation/application seeking her appointment on compassionate grounds in the post of Sweeper-cum-Messenger on 06.01.2007 and the same was rejected on 27.07.2007.

12. The revised model scheme for payment of ex-gratia amount in lieu of appointment on compassionate grounds and appointment of dependents of the deceased employees on compassionate grounds was framed basing on the judgment of the Hon'ble Apex Court in **Sri Umesh Kumar Nagpal v. State of Haryana and Ors.**<sup>3</sup>. The Government of India, by letter D.O. No.F.18/12004-IR, dated 19.06.2007 advised modifications to the existing scheme for payment of ex-gratia providing for compassionate appointment in exceptional cases. The Chief Advisory Personnel addressed a letter to all Chief Executives of all Public Sector Banks to adopt the new scheme by the banks **with the approval of Board of Directors** preferably by 31.08.2007. It was further indicated in the said communication that applications for appointment on compassionate grounds/payment of ex-gratia pending as on 31.07.2004 i.e. the date on which the existing model scheme was circulated by IBA shall be considered in accordance with the scheme to be revised now.

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<sup>2</sup> (2019) (6) ALT 84

<sup>3</sup> JT 1994 (3) SC 525

Further indicated that any application that has been disposed of prior to 31.07.2004 and any order passed thereon shall not be reopened.

13. The Deputy Secretary of Government of Indian addressed a letter, dated 21.08.2008 to the Chief General Manager, NABARD wherein it was mentioned that the scheme may be made applicable in Regional Rural Banks (RRBs) w.e.f. 01.09.2008. Acting upon the letter referred to supra, the Chief General Manager, NABARD addressed a letter to all sponsor banks to apply the scheme in Regional Rural Banks w.e.f 01.09.2008.

14. In view of the communications referred supra, the revised model scheme for payment of ex-gratia amount in lieu of appointment on compassionate grounds and appointment of dependents of deceased employees on compassionate grounds was made applicable to Regional Rural Banks w.e.f. 01.09.2008. However, by impugned letter, dated 27.07.2007, the bank authorities rejected the claim of the writ petitioner erroneously without following the earlier scheme subsisting as on the date of death of the husband of the writ petitioner. Except contending that the new scheme would operate retrospectively nothing was brought to our notice as to when the new scheme was adopted by Regional Rural Banks, the appellant herein. In the absence of such material, the letter addressed by Chief General Manager, NABARD to all sponsor banks to apply the scheme in Regional Rural Banks w.e.f 01.09.2008 would be the date on which the new scheme was adopted by the appellant bank.

15. Once this court, in the absence of other material, came to conclusion that the new scheme was adopted by Regional Rural Banks with effect from 1-9-2008 the contention of learned standing counsel for

the appellant that the case of the writ petitioner shall not be considered in the light of the new scheme is liable to be rejected. In fact, the application of respondent/writ petitioner was rejected on 27-7-2007 before adaptation of new scheme. The Hon'ble Apex Court in Bheemesh's case also discussed as to whether the date of death of the employee or date of consideration of the application of the dependent must be taken as criteria, came to the conclusion that date of death is the criteria to consider the application.

16. In the case on hand, application was made on 01.06.2007 and the same was rejected on 27.07.2007 even before the new scheme was made applicable in regional rural banks which came into effect from 01.09.2008.

17. Thus, viewed from any angle there are no merits in the writ appeal and hence, the same is liable to be dismissed.

18. Accordingly this writ appeal is dismissed. No costs. Pending miscellaneous applications, if any, in this Writ Appeal shall stand closed.

**PRASHANT KUMAR MISHRA, CJ**

**SUBBA REDDY SATTI, J**

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**HON'BLE MR. JUSTICE PRASHANT KUMAR MISHRA, CHIEF JUSTICE  
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