IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE ANAND SINGH BAHRAWAT

ON THE 25th OF MARCH, 2026

WRIT PETITION No. 3058 of 2014

SMT.REKHA JAIN AND OTHERS

Versus

CENTRAL MADHYA PRADESH GRAMIN BANK AND OTHERS

Appearance:

Shri Ramesh Prasad Gupta - Advocate for petitioners.

Shri Somyadeep Diwvidi - Advocate for respondents.

ORDER

This petition, under Article 226 of Constitution of India, has been filed seeking the following relief(s):

> "(a) That, the impugned orders of respondent no.1&2 no. R.O./02HRD/2013-14/228 dated 27/29-05.13 contained in Annexure P/7 & order dated 20.10.2012 of respondent no.3 based on order of respondent no.2 contained in Annexure P/4 may kindly be quashed.
>
> (b) That, the respondents may kindly be ordered or directed to make payment of Ex-gratia and outstanding medicals claims to the petitioner along with interest.

(c) Any other relief which this Hon'ble court dreams fit under the facts and circumstances of the case be also award along with cost."

2. Learned counsel for the petitioners submits that petitioner No.1 is the wife of late Shri Mahesh Kumar Jain and petitioner Nos.2 and 3 are the sons of deceased Mahesh Kumar Jain. The husband of petitioner No.1 was serving on the post of Cashier in the office of respondent No.3 at Dabra. He developed a cancerous disease and during the course of treatment, he died on 30.09.2009 in Delhi. Thereafter, the petitioners intimated the respondents about the death of deceased and petitioner No.1 submitted an application to respondent No.1 on 22.10.2009 requesting payment of gratuity, group insurance, leave encashment, and medical claims of her husband. Subsequently, petitioner No.1 also submitted another application dated 23.10.2009 seeking compassionate appointment and further requested grant of all benefits, including leave encashment, fund amount, insurance amount, financial benefits, arrears of salary, and other admissible dues arising after the death of the deceased. It is further submitted that the respondents did not take any action on the aforesaid applications. However, vide order dated 23.01.2012, respondent No.2 called for documents pertaining to the treatment of the deceased. Thereafter, vide communication dated 20.10.2012, the petitioner was informed that respondent No.2 had rejected her claim for ex-gratia payment vide letter dated 31.08.2012 on the ground that the application was not submitted within the prescribed time and, therefore, was not liable to be considered. Thereafter, petitioner submitted a representation dated 27.12.2012 and a reminder dated 13.05.2013. Subsequently, respondent No.2 passed an order dated 27.05.2013 stating that the application of petitioner for ex-gratia payment had been closed on the ground of limitation. Thereafter, the petitioner served a legal

notice through her advocate. It is further submitted that the respondent Bank has paid all other amounts except the ex-gratia amount. It is submitted that gratuity was paid to petitioner on 31.12.2009 and thereafter, a differential amount was paid on 23.06.2011 as per the 9th Pay Scale. Further, leave encashment was granted on 18.12.2009, and the difference amount, as per the 9th Pay revision, was paid on 08.11.2010. The amount under GSLIC was granted vide order dated 27.03.2010. It is further submitted that although the respondents have paid the aforesaid amounts on the respective dates but they rejected the claim of petitioner for ex-gratia payment vide order dated 27.05.2013 (Annexure P/7) on the basis of order dated 14.12.2009 (Annexure R/8).

3. Learned counsel for petitioner submitted that the concept of *ex gratia* payment has been introduced in the service jurisprudence because of granting help to the dependents of deceased employee who devoted his/her precious time with employer and in such circumstances in absence of the deceased employee, employer is duty bound to maintain the dependents of deceased. In such circumstances, while deciding the case of the petitioner for *ex gratia* payment, lenient view is required to be taken by the Authority but here in the present case by acting in a mechanical manner claim of the petitioner has been rejected technically. Learned counsel for petitioner further submitted that *ex gratia* payment is a last hope of the dependents of the deceased employee who is no more and question of last hope cannot be considered by applying the strict interpretation and same should be considered by applying the rule of liberal interpretation because cases of *ex gratia* payment remain always on the mercy of employer and prayer of mercy cannot be refused in such a mechanical manner.

4. Learned counsel for petitioner further submitted that petitioner duly explained, in the notice which was sent on her behalf by the advocate, the delay occurred in applying *ex gratia* because the question of livelihood was there before her so she was indulged in settling the family pension claim and when the family pension claim was settled by the respondent Bank, without wasting time she immediately applied for *ex gratia* but such claim of *ex gratia* has been turned down by the respondent-Bank by applying the concept of technicalities and mathematics stating that same must be filed within six months as provided in the policy but while rejecting the said claim the respondent Bank did not consider the fact that petitioner is a widow having kid with her and having more burden on her shoulders. So, the delay in applying claim of *ex gratia* ought to have been condoned by the respondent-Bank but by applying the strict principles claim of petitioner for grant of *ex gratia* payment has been denied in a mechanical manner.

5. *Per contra*, it is submitted by learned counsel for the respondents/Bank that as per the Policy dated 21.8.2008 *ex gratia* amount will be paid to the family of the deceased employee if eligible and if requested for within six months from the date of the death of the employee. Learned counsel for respondents/Bank further submitted that husband of petitioner late Mahesh Kumar Jain expired on 30.9.2009 and petitioner submitted her application for *ex gratia* payment before the respondent bank on dated 09.07.2012 i.e. after lapse of more than two years from the death of her husband. Therefore, due to late submission of application for payment of *ex gratia*, the competent authority rejected the application of petitioner. Learned counsel for respondents-Bank further submitted that respondent-bank has already paid all of the terminal dues of deceased employee

to the petitioner in her saving account. Learned counsel for respondent-Bank submitted that each and every action of the respondent-Bank is based on the Scheme/Circular issued by respondent- Bank and therefore the impugned orders are just and proper. Learned counsel for respondent placed reliance on 12 of the order passed by the Supreme Court in the case of **Union of India v .C. Krishan Reddy** [Civil Appeal No.7127 of 1999 order dated 18.12.2003]. To bolster his submissions, learned counsel for the respondent-Bank placed reliance on para 6 of order passed by the co-ordinate Bench of this Court in the case of **Deepak Sharma Vs. Union Bank of India** reported in **2019 (II) MPWN 5**, which for ready reference and convenience is quoted below as under:

> *"*6. So far as payment of ex gratia in lieu of compassionate appointment is concerned, it was held that under the Ex Gratia Scheme the dependent of the deceased employee ought to have laid his claim within six months from the date of death of the employee and, therefore, even under the said scheme the petitioner is not entitled for payment of ex gratia, as the claim was made after four years and seven months. *"*

Thus, while supporting the impugned orders, learned counsel for respondent-Bank prays for dismissal of present petition.

6. Heard learned counsel for the parties and perused the record.

7. Perusal of record reveals that petitioner No.1, the widow of late Shri Mahesh Kumar Jain, along with petitioner Nos.2 and 3 (sons of the deceased), claimed that the deceased was working on the post of Cashier in the office of respondent No.3 at Dabra and he died on 30.09.2009 in Delhi during treatment of a cancerous disease. After his death, the petitioners informed the respondents and sought payment of all retiral and other admissible dues including gratuity, group

insurance, leave encashment, medical claims and compassionate appointment. The record reflects that though the respondents released other dues such as gratuity, leave encashment, and GSLIC amounts from time to time the claim for ex-gratia payment was rejected on the ground that the application was not submitted within the prescribed period. The rejection was communicated vide order dated 27.05.2013 (Annexure P/7), based on the policy dated 14.12.2009 (Annexure R/8). The petitioners contend that ex-gratia payment is intended to provide financial assistance to the dependents of a deceased employee and therefore, requires a liberal and compassionate approach. The delay in submitting the application was attributed to the petitioner's circumstances, particularly the need to secure family pension and manage livelihood after the death of her husband. However, the respondents rejected the claim on technical grounds of limitation without considering these circumstances. Thus, the grievance of the petitioners is that the rejection of the ex-gratia claim was made in a mechanical manner by applying strict technical rules without adopting a humane and liberal approach warranted in such cases. The judgment cited by respondent dated 18.12.2003 passed by the Supreme Court in Civil Appeal No.7127/1999 **/Union of India v .C. Krishan Reddy/** is not applicable in the present case as the facts and grounds mentioned in the said order are different from the present case.

8. Clause 5 of 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, relating to ex-gratia payment, is quoted below for ready reference and convenience:

5. Ex-gratia Payment

(a) In the cases as in para 4(A), ex-gratia amount will be paid to the family of the employee **if eligible** and if requested for within six months from the date of the 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".

(b) Ex-gratia may be granted to the family of the employee in the manner and subject to the ceilings specified below, if the monthly income of the family from all sources is less than 60% of the last drawn salary (net of taxes) of the employee.

Calculation of monthly income

(1) Terminal Benefits

(i) Provident Fund

(ii) Gratuity

(iii) Leave Encashment

(iv) Any other amount paid under Bank's

Scheme(s) _________

Sub-total (A) _________

(2) Liabilities

Loans taken from bank and/or other financial

Institutions with the prior approval of the bank ____________

Sub-total (B) ____________

Net corpus of terminal benefits (C=A-B) ____________

(3) **Investments**

Deposits
NSCS
PPF
LIC policies
Others

Sub-total (D) ____________

(4) Details of movable property, if any, held and ____________

Monthly income derived therefrom.

(5) Details of immovable property, if any, held and monthly income therefrom

(6) Monthly income of the family from all sources-

(i) Monthly interest at the Bank's maximum term deposit rate on the net corpus of terminal benefits (C)

(ii) Monthly income from investments

(iii) Monthly income from movable and Immovable property

(iv) Monthly income of dependent family members

(v) Any other monthly income ____________

Total monthly income of the family ____________

(c) If the total monthly income of the family arrived at as above is less than 60% of the last drawn gross salary (net of taxes) of the employee, ex-gratia amount as under will be payable.

(i) The cadre-wise ceiling on ex-gratia amount payable will be as follows:

Category	**Maixmum Amount**
Officer	Rs.8 lacs
Clerical Staff	Rs.7 lacs.
Subordinate Staff	Rs.6 lacs.

(ii) 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 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 (i) above, will be payable.

(d) In case of an employee seeking premature retirement due to total incapacitation for work, the ex-gratia is payable only if all the extant provisions for such retirement are fully satisfied and the retirement has been approved by the competent authority specified therefor.
(e) While dealing with proposals for grant of ex-gratia as above, in cases where disciplinary action had been taken/was pending against the employee dying in harness or the deceased employee was involved in financial irregularities, embezzlement of funds, committing frauds etc.,

banks will continue to abide by the guidelines issued by the Government of India requiring consideration and decision in each case by the Board of the bank.

(f) The ex-gratia amount in eligible cases will be paid within 3 months of receipt of application, complete in all respects.

(g) 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.

(h) The Scheme will come into force with retrospective effect from 31.07.2004 and all applications pending as on 31.07.2004 shall be considered in accordance with the revised scheme. Any application disposed off prior to 31.07.2004 and any order passed thereon shall not be reopened.

9. The amount is payable to the family of deceased employee who is in indigent or penurious circumstances, provided the request is made within six months from the date of the employee's demise. The *ex gratia* amount varies based on deceased employee's last drawn gross salary & the family's total income. There was a delay of approximately two years in the submission of the *ex gratia* application. It was not intentional and should be condoned, especially considering her pursuit of compassionate appointment.

10. The delay of approximately two years in filing application for *ex gratia* compensation shall be condoned and the petitioner is entitled to be paid *ex gratia* compensation. Denial of *ex gratia* compensation to the petitioner is in violation of her legal right. Being a legal heir & dependent of her husband, she is entitled

to be granted *ex gratia* compensation. The application of petitioner is not denied on the ground that the petitioner does not deserve or she is not eligible for *ex gratia* compensation which is apparent from the order impugned Annexure P-7, relevant of which reads as under:

> " विषयः– स्व0 श्री महेश कुमार जैन कैशियर शाखा डबरा की मृत्यु उपरांत क्लेम की राशि के संबंध में.
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> संदर्भ– प्र.का को प्रेषित आपका पत्र दिनांक 13.05.2013
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> उक्त विषयांतर्गत प्रधान कार्यालय के निर्देशानुसार आपको सूचति किया जाता है कि आपके द्वारा एक्सग्रेशिया हेतु आवेदन नियमानुसार निर्धारित समयावधि में नहीं किये जाने के कारण प्रकरण/नियमानुसार नस्तीबद्ध किया जा चुका है.
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> इस संबंध में शाखा डबरा के माध्यम से पत्र क्र.क्षे.का/05/एचआरडी/12–13/1279 दिनांक 31.08.2012 एवं क्षे. का/01/एचआरडी/2012–13/2008 दिनांक 30.03.2013 से आपको अवगत कराया गया है, चूंकि आपका एक्सग्रेशिया का प्रकरण प्रधान कार्यालय में नियमानुसार नस्तीबद्ध हो चुका है. अतः अनावश्यक पत्राचार न करें."

11. **The respondents had not communicated her that she could avail the remedy available under the Scheme i.e. *Scheme for payment of Ex-gratia (lump sum amount) in lieu of Appointment on compassionate grounds in RRBs.*" dated 21.8.2008 for grant of *ex gratia* payment in lieu of appointment on compassionate ground within six months from the date of death of her husband.** Petitioner was also given family pension. In the circumstances, the respondent ought to have either rejected the application on the ground that petitioner is not eligible for *ex gratia* payment which has not been done by the respondent/Bank, rather the plea taken is that the application was not filed within six months in terms of Clause 4 of the Scheme. **The respondents have not intimated to petitioner that there is a limitation period of six months for applying for the ex gratia amount.**

12. Respondent-Bank issued Family Pension Disbursement order only and paid other benefits on 18.11.2010 and 23.6.2011 and due to which the application for grant of *ex gratia* could not be moved within six months. In application form of *ex gratia* (J/V), there is a Clause/Para pertaining to monthly family pension. Petitioner submitted application for *ex gratia* on 09.07.2012. Learned counsel for respondent/Bank is unable to give any plausible reason for fixing the time for filing an application within six months only. If the steps have not been taken by the widow of a deceased employee within six months, that may not be strictly taken into consideration in accordance with Scheme. The relief of grant of *ex gratia* payment should not have been disallowed merely on this technicality that the application requesting grant of *ex gratia* payment was not filed within six months under the scheme of *ex gratia*. The limitation of six months is also not a statutory limitation to be construed so strictly that after the expiry of that period the relief cannot be granted on any ground. Respondent/Bank ought to have communicated the petitioner that she should collect information and do the needful before the expiry of six months after the demise of her husband. The respondent/Bank has not disclosed as to when such communication had been made to her. *Ex gratia* payment is a last hope of the dependents of the deceased employee who is no more and question of last hope cannot be considered by applying the strict interpretation and **same should be considered by applying the rule of liberal interpretation because cases of *ex gratia* payment remains always on the mercy of employer and prayer of mercy cannot be refused in such a mechanical manner.** The format of the application which had been filed by petitioner has columns regarding amounts received by petitioner as Pension, Provident Fund, Gratuity, Leave Encashment amount etc. It is not disputed that

these amounts were given by respondent/Bank. The respondent/Bank has given the dates when these amounts were given to petitioner i.e on 18.11.2010 and 23.6.2011. **Without receiving the amount of Provident Fund, Pension, Gratuity etc, the petitioner could not claim the *ex gratia* amount under the scheme and could not fill the the form completely. Therefore, even if there was some delay in filing proper application on the format prescribed under the Scheme, it should have been condoned by respondent/Bank.**

13. As per application for compassionate appointment, educational qualification of petitioner is Class -XII and her husband was Cashier, therefore, it is not expected from the petitioner that she had understood the policy/scheme/format of application (in English) for *ex gratia* payment. Petitioner is having mother and two son- in-law as per Annexure P/2.

14. So far as the judgment passed by the co-ordinate Bench of this Court in the case of **Deepak Sharma (supra)** is concerned, the facts of the present case and of that case are different. Even otherwise, by order dated 03-12-2021 passed in WA.No.905/2019 [preferred against the order dated 04.04.2019 passed in WP.No.3916/2011 (Deepak Sharma Vs. Union Bank of India & Another)], the Division Bench of this Court has held as under:-

> …...Therefore, it is the 1997 Scheme that would be applicable to the petitioner. Hence, we find that to this extent the order passed by the learned Single Judge may not be sustainable. The respondent is liable to consider the case for compassionate appointment based on the 1997 Scheme in view of the fact that the date of death was 23.04.2002.
>
> Consequently, the Writ Appeal is allowed. The order passed by the learned Single Judge dated 04.04.2019 passed in WP. No.3916 of 2011 is set aside. The respondent/Bank is directed to consider the writ petitioner's plea for grant of compassionate appointment based on

1997 Scheme. If he is eligible under the said scheme, the compassionate appointment may be accorded to him. The said exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order."

15. Having regard to the aforesaid discussion, this Court is of the considered view that action of the Bank in not granting *ex gratia* to the petitioner after death of her husband late Shri Mahesh Kumar Jain is unwarranted and in the circumstances, inevitable inference considering the entirety of facts is that petitioner cannot be denied grant of *ex gratia* payment in accordance with Scheme of 21.8.2008 merely on the ground that the application in the prescribed format was not filed by petitioner within six months from the date of death of her husband. In the circumstances, it will not be appropriate to deny the petitioner the grant of *ex gratia* payment on demise of her husband who worked with the respondent/Bank and the ends of justice would meet only if the petitioner is granted *ex gratia* amount of Rs.7,00,000/- (Rupees Seven Lacs Only).

16. In view of the above, present petition stands disposed of with a direction to the respondent/Bank to pay **Rs.7,00,000/- (Rupees Seven Lacs Only)** to petitioner within a period of three months from the date of order, failing which the petitioner will be entitled to the interest @ 18% per annum on the said amount additionally from the date of filing of petition i.e. 15.05.2014 till realization of the amount.

(Anand Singh Bahrawat)
Judge

Ahmad