

IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 14TH DAY OF NOVEMBER, 2025

PRESENT

THE HON'BLE MR. JUSTICE S G PANDIT

AND

THE HON'BLE MRS JUSTICE GEETHA K.B.

WRIT PETITION NO.104948 OF 2024 (S KAT)

BETWEEN:

1. THE STATE OF KARNATAKA,
R/BY PRINCIPAL SECRETARY,
DEPARTMENT OF FOREST, ECOLOGY &
ENVIRONMENT,
M.S. BUILDING,
BENGALURU-560001.
2. THE CHIEF CONSERVATOR OF
FOREST AND HEAD,
KARNATAKA STATE FOREST BATTALION,
ARANYA BHAVAN,
MALLESHWARAM,
BENGALURU-560001.
3. THE CHIEF CONSERVATOR OF FOREST,
DHARWAD CIRCLE,
DHARWAD,
DIST. DHARWAD-580001.
4. THE JOINT DIRECTOR AND
DEPUTY CONSERVATOR OF FOREST,
KARNATAKA STATE FOREST ACADEMY,

GUNGARAGATTI,
DHARWAD,
DIST. DHARWAD-580001.

5. THE DEPUTY CONSERVATOR OF FOREST,
KARNATAKA STATE FOREST ACADEMY,
GUNGARAGATTI,
DHARWAD, DIST.
DHARWAD-580001.

...PETITIONERS

(BY SRI. G.K. HIREGOUDAR, PRL. GOVERNMENT ADVOCATE)

AND:

SMT. MADHU BADIGER,
W/O LATE SHIVAKUMAR,
AGE. 34 YEARS, OCC. UNEMPLOYEE,
R/O. HOUSE NO.48, PUROHIT NAGAR,
KALAGHATAGI ROAD,
DHARWAD,
DIST. DHARWAD-580004.

...RESPONDENT

(BY SRI. H.M. DHARIGOND, ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE A WRIT, ORDER OR DIRECTION IN THE NATURE OF CERTIORARI TO QUASH THE ORDER DATED 18.03.2024 PASSED BY THE KARNATAKA STATE ADMINISTRATIVE TRIBUNAL, BELAGAVI IN APPLICATION NO.10874 OF 2023 (ANNEXURE.C TO THE WRIT PETITION) AND ETC.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED ON 30.10.2025 AND COMING ON FOR PRONOUNCEMENT OF ORDER THIS DAY, **S G PANDIT J.,** DELIVERED THE FOLLOWING:

CORAM: THE HON'BLE MR. JUSTICE S G PANDIT
AND
THE HON'BLE MRS JUSTICE GEETHA K.B.

CAV ORDER

(PER: THE HON'BLE MR. JUSTICE S G PANDIT)

The above writ petition filed under Article 226 of the Constitution of India by the State Authorities in Forest Department is directed against the order dated 18.03.2024 passed in Application No.10874/2023 by the Karnataka State Administrative Tribunal, Belagavi (for short, 'the Tribunal'), whereunder the respondent's application is allowed directing to consider the representation filed by the applicant on 09.05.2023 and pass orders in providing appointment to the post of Second Division Assistant (SDA).

2. Brief facts of the case are that, the respondent's husband, Sri. Shivakumar Gangadhar Badiger, who was working as SDA in the office of the Deputy Conservator of Forests, Karnataka State Forest Academy, Dharwad, while in service died on 10.01.2021. The respondent submitted an application seeking compassionate appointment on 06.12.2021 enclosing SSLC marks card and necessary certificates. The respondent passed II Year Pre-University

Course examination in April, 2023 and immediately, thereafter on 09.05.2023, the respondent is said to have made a representation to consider her case for compassionate appointment as SDA. However, the petitioners considering the application of the respondent dated 06.12.2021 and taking note of the qualification of the respondent as on the date of her first representation, appointed her as Group-D employee vide order dated 07.10.2023, which the respondent accepted and she is working in the Forest Department. Prior to her appointment as Group-D employee, under the endorsement dated 16.08.2023, the respondent's request for appointing her as SDA was rejected stating that, as on the date of her application within the time prescribed under the Karnataka Civil Services (Appointment on Compassionate Grounds) Rules, 1996 (for short, 'the 1996 Rules'), the respondent was not possessing the qualification of PUC. Questioning the said endorsement, the respondent was before the Tribunal in the above Application No.10874/2023. The Tribunal, under the impugned order, allowed the application placing reliance on Circular dated 27.10.2017 and holding that the application for compassionate appointment shall be considered in terms of

the Rules applicable as on the date of consideration of the application. Aggrieved by the said order of the Tribunal, the State authorities in Forest Department are before this Court.

3. Heard Sri. G.K.Hiregoudar, learned Principal Government Advocate for the petitioners, and Sri. H.M.Dharigond, learned counsel for the respondent. Perused the entire writ petition papers.

4. Learned Prl. Government Advocate would submit that the Tribunal committed an error in allowing the application and directing to provide appointment as SDA to the respondent. He submits that the appointment on compassionate grounds cannot be claimed as a matter of right, and, further placing reliance on Rule 6(4) of the 1996 Rules, submits that appointment once made under the Rules shall be final and no fresh appointment to a different post or higher post would be permissible. Learned Government Advocate would submit that, in terms of Rule 5 of the 1996 Rules, an application seeking compassionate appointment shall be made within one year from the date of death of the government servant and, in the case of a minor, he must have

attained the age of 18 years within two years from the date of death of the government servant and he must make an application within two years thereafter. The respondent submitted the application on 06.12.2021 and, as on the said date, the respondent possessed the qualification of SSLC only and she was not eligible for consideration of her candidature for appointment as SDA. Learned Prl. Government Advocate would also invite attention of this Court to Rule 6(7) of the 1996 Rules to submit that the appointment under the Rules would be made in accordance with the provisions that are prevalent on the date of application. Further, the learned Prl. Government Advocate would submit that, if the application of the respondent, dated 09.05.2023 wherein she requested for appointment as SDA on acquiring PUC qualification is considered, it would amount to considering an application filed beyond the time permissible under Rule 5 of 1996 Rules. He would also submit that the respondent is appointed as Group-D employee vide order dated 07.10.2023 and having accepted the said appointment, it is not permissible for the respondent to seek fresh appointment as SDA. Thus, he would pray for allowing the writ petition.

5. Per contra, Sri. H.M.Dharigond, learned counsel for the respondent would submit that the respondent, initially, made an application seeking compassionate appointment on 06.12.2021 and, as on that date, the respondent possessed the qualification of SSLC and subsequently, the respondent acquired the qualification of PUC in April, 2023; as the application of the respondent was under consideration and no appointment was issued on compassionate grounds, the respondent submitted a representation dated 09.05.2023 to consider her qualification of II Year PUC and appoint her on compassionate grounds as SDA. Learned counsel referring to Circular dated 27.10.2017, submits that, while considering the application for appointment on compassionate grounds, appointment shall be provided based on the qualification possessed by such applicants. It is also the submission of the learned counsel for the respondent that the application for appointment on compassionate grounds shall be considered in terms of Rules applicable as on the date of consideration of the application for appointment in terms of decision of the Hon'ble Apex Court in the case of **N.C. Santhosh Vs. State of**

Karnataka & others¹. Thus, he would pray for dismissal of the writ petition.

6. Having heard the learned counsel for the parties and on perusal of the entire writ petition papers, the points that would arise for consideration are:

- i) Whether the respondent, having accepted the appointment to Group-D post, could seek appointment to a higher post afresh?
- ii) Whether the impugned order passed by the Tribunal requires interference?

7. The answer to the above questions would be in the negative and affirmative respectively for the following reasons:

- (a) In the State of Karnataka, appointment on compassionate grounds is governed by 1996 Rules. Rule 5 provides for making an application for appointment. The application seeking compassionate appointment shall be made by the dependent of a deceased government servant within one year from the date of

¹ (2020)7 SCC 617

death of the government servant, and in case of a minor he must have attained the age of 18 years within two years from the date of death of government servant and he must make an application within two years thereafter. Rule 3, which specifies the eligibility criteria for appointment on compassionate grounds, makes it abundantly clear that appointment under the 1996 Rules shall not be claimed as a matter of right and shall not be given as a matter of course. Rule 6(4) and Rule 6(7) of 1996 Rules read as under:

"6. Appointment by the Competent Authority.

(1) x x x x x

(2) x x x x

(4) *Appointment once made under these rules shall be final and no fresh appointment to a different post or higher post under these rules shall be permissible.*

(5) x x x x

(6) x x x x

(7) *The appointment, under these rules shall be made in accordance with the provisions that are prevailing on the date of application."*

Above Rule 6(4) would make it clear that appointment once made under the 1996 Rules shall be final and no fresh appointment to a different post or higher post under 1996 Rules shall be permissible. Under sub-rule (7) of Rule 6 of the Rules, it is made abundantly clear that appointment on compassionate grounds under the 1996 Rules shall be made in accordance with the provisions that are prevailing on the date of application.

- (b) In the case on hand, the respondent made an application on 06.12.2021 claiming appointment on compassionate grounds on the death of her husband who was working as SDA in the office of the petitioner No.5-Deputy Conservator of Forests, Karnataka State Forest Academy, Dharwad. It is not in dispute that, as on the date of making an application the respondent possessed qualification of SSLC. The respondent acquired the qualification of II Year PUC only in the month of April, 2023. In terms of Rule 5 of 1996 Rules, the application for appointment on compassionate grounds shall be made within one year from the date of death of the government servant. The application filed

by the respondent for compassionate appointment is within time. In terms of the said application, the petitioner possessed the qualification of SSLC. Considering the said application and qualification of the respondent as on the date of making the application, the respondent was appointed to Group-D post by order dated 07.10.2023. The respondent accepted the said appointment as Group-D employee and the respondent is working as such in the petitioner-department.

- (c) Rule 6(4) of the 1996 Rules makes it clear that once the appointment is made under the 1996 Rules, the same would be final and no fresh appointment to a different post or higher post is permissible.
- (d) Rule 6(7) of the 1996 Rules would state that appointment under 1996 Rules shall be made in accordance with the provisions that are prevailing as on the date of the application. The said sub-rule (7) of Rule 6 was inserted by Notification dated 09.04.2021, whereas the respondent's application was dated 06.12.2021. Therefore, in terms of the said Rules, the

application of the respondent shall have to be considered as on the date of her application i.e., on 06.12.2021 on which date the respondent possessed the qualification of SSLC. Taking note of the SSLC qualification, the respondent was rightly appointed to Group-D post.

- (e) The Tribunal placing reliance on the decision of the Hon'ble Apex Court in **N.C.Santhosh's** case (supra) to say that consideration of an application for appointment has to be with regard to Rules prevailing on the date of consideration and not on the date of filing the application. Even assuming that Rule applicable as on the date of consideration of the application is taken into consideration, Rule 6(7) was in force. However, the said decision would have no application to the facts and circumstances of the present case since subsequent to the said decision Rule 6 is amended and sub-rule (7) is inserted to say that the application for compassionate appointment shall be considered in accordance with the provisions that were prevailing on the date of the application.

- (f) For the reasons recorded above, the Tribunal is not justified in allowing the application. The Circular on which the Tribunal placed reliance would only state that the application for compassionate appointment shall be considered based on the qualification possessed by such candidates. In the instant case, the respondent's application for compassionate appointment was considered on 06.12.2021, taking note of the respondent's qualification as on that date i.e., SSLC.
- (g) The Hon'ble Apex Court in ***State of Rajasthan Vs. Umrao Singh²***, was considering the case of compassionate appointment and in the course of its order, it is observed that once a right has consummated, any further or second consideration for a higher post on the ground of compassion would not arise. The relevant paragraphs No.8 and 9 of the said decision read as under:

"8. Admittedly the respondent's father died in harness while working as Sub-Inspector, CID (Special Branch) on 16-3-1988. The respondent filed an application on 8-4-1988 for his appointment on compassionate ground as Sub-Inspector or LDC according to the availability of

² (1994)6 SCC 560

vacancy. On a consideration of his plea, he was appointed to the post of LDC by order dated 14-12-1989. He accepted the appointment as LDC. Therefore, the right to be considered for the appointment on compassionate ground was consummated. No further consideration on compassionate ground would ever arise. Otherwise, it would be a case of "endless compassion". Eligibility to be appointed as Sub-Inspector of Police is one thing, the process of selection is yet another thing. Merely because of the so-called eligibility, the learned Single Judge of the High Court was persuaded to the view that direction be issued under proviso to Rule 5 of Rules which has no application to the facts of this case.

9. Since both the sides relied on Naresh Kumar Bali's case, we will now refer to the same. We had indicated our mind in that very ruling in paragraph 15 of the said judgment. It reads as under: (SCC p. 452, para 15)

"Though the respondent claimed that he had applied for the post of a teacher the Subordinate Service Selection Board had not chosen him for the post of teacher because he did not have the requisite qualification. In fact, the respondent did not object to his appointment as a clerk and his claim for consideration for the post of teacher was one year after his appointment. Thus, the appointment on compassionate ground as per the scheme had been completed."
(emphasis supplied)

Therefore, once the right has consummated as we indicated earlier, any further or second consideration for a higher post on the ground of compassion would not arise."

- (h) Subsequently, the Hon'ble Apex Court, in ***I.G. (Karmik) and others Vs. Prahalad Mani Tripathi***³, was again considering a case of compassionate appointment and placing reliance on ***Umrao Singh's*** case (supra) at paragraph 7, 8, 9 and 12 has observed as follows:

"7. Public employment is considered to be a wealth. It in terms of the constitutional scheme cannot be given on descent. When such an exception has been carved out by this Court, the same must be strictly complied with. Appointment on compassionate ground is given only for meeting the immediate hardship which is faced by the family by reason of the death of the bread earner. When an appointment is made on compassionate ground, it should be kept confined only to the purpose it seeks to achieve, the idea being not to provide for endless compassion.

8. In National Institute of Technology v. Niraj Kumar Singh this Court has stated the law in the following terms : (SCC p. 487, para 16)

³ (2007) 6 SCC 162

"16. All public appointments must be in consonance with Article 16 of the Constitution of India. Exceptions carved out therefore are the cases where appointments are to be given to the widow or the dependent children of the employee who died in harness. Such an exception is carved out with a view to see that the family of the deceased employee who has died in harness does not become a destitute. No appointment, therefore, on compassionate ground can be granted to a person other than those for whose benefit the exception has been carved out. Other family members of the deceased employee would not derive any benefit thereunder."

9. In State of Rajasthan v. Umrao Singh this Court has categorically stated that once the right is consummated, any further or second consideration for higher post on the ground of compassion would not arise.

12. Furthermore, the respondent accepted the said post without any demur whatsoever. He, therefore, upon obtaining appointment in a lower post could not have been permitted to turn round and contend that he was entitled for a higher post although not eligible therefor. A person cannot be appointed unless he fulfils the eligibility criteria. Physical fitness being an essential eligibility criteria, the Superintendent of Police could not have made any recommendation in violation of the rules. Nothing has been shown before us that even

the petitioner came within the purview of any provisions containing grant of relaxation of such qualification. Whenever, a person invokes such a provision, it would be for him to show that the authority is vested with such a power."

- (i) The Hon'ble Apex Court has made it clear that the appointee, once having accepted the compassionate appointment without any demur in a lower post cannot turn around and contend that he would be entitled to a higher post.

8. For the reasons recorded above, the writ petition is allowed. The impugned order dated 18.03.2024 passed in Application No.10874/2023 by the Tribunal is set aside and the Application No.10874/2023 stand dismissed.

**Sd/-
(S G PANDIT)
JUDGE**

**Sd/-
(GEETHA K.B.)
JUDGE**

KMS
CT:VP