



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 8TH DAY OF OCTOBER, 2025

PRESENT

THE HON'BLE MR. JUSTICE H.T.NARENDRA PRASAD

AND

THE HON'BLE MR. JUSTICE TYAGARAJA N. INAVALLY

WRIT PETITION NO.200771 OF 2025 (S-KAT)

BETWEEN:

1. THE STATE OF KARNATAKA,
THROUGH ITS SECRETARY,
DEPARTMENT OF SCHOOL EDUCATION AND
LITERACY, 2ND GATE, 6TH FLOOR,
M.S.BUILDING, DR. AMBEDKAR VEEDHI,
BENGALURU - 560 001.
2. THE ADDITIONAL COMMISSIONER,
PUBLIC INSTRUCTIONS, RODDA ROAD,
DIET CAMPUS, DEPUTY CHANNABASAPPA ROAD,
DHARWAD - 580 008.
3. THE DEPUTY DIRECTOR,
PUBLIC INSTRUCTIONS VIJAYAPURA,
DISTRICT VIJAYAPURA - 586 101.
4. THE BLOCK EDUCATION OFFICER,
SINDAGI, TALUKA SINDAGI,
DISTRICT VIJAYAPURA - 586 128.

...PETITIONERS

(BY SRI VIRANAGOUDA M.BIRADAR, A.G.A.)

Digitally signed by
VARSHA N
RASALKAR

Location: HIGH
COURT OF
KARNATAKA



AND:

SRI. SACHIN RATHOD,
S/O LATE KHEMU,
OCC: UNEMPLOYED,
R/O: C/O: L.L.R. ANGADI,
H.NO.202, KANAKADAS BADAWANE,
VIJAYAPURA TALUKA
DISTRICT VIJAYAPURA – 586 101.

...RESPONDENT

(BY SRI ARUNKUMAR AMARAGUNDAPPA, ADVOCATE FOR C/R)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226
AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO
ISSUE A WRIT OF CERTIORARI OR ANY OTHER WRIT OF THE
NATURE OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT
OR ORDER OR DIRECTION TO SET ASIDE THE ORDER DATED
02.02.2024 PASSED BY THE HON'BLE KARNATAKA
ADMINISTRATIVE TRIBUNAL AT KALABURAGI IN APPLICATION
NO. 20429/2023 VIDE ANNEXURE-B AND ETC.

THIS WRIT PETITION, COMING ON FOR PRELIMINARY
HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE
THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE H.T.NARENDRA PRASAD
AND
HON'BLE MR. JUSTICE TYAGARAJA N. INAVALLY



ORAL ORDER

(PER: HON'BLE MR. JUSTICE H.T.NARENDRA PRASAD)

This petition is filed by the State under Articles 226 and 227 of Constitution of India challenging the order dated 02.02.2024 passed by the Karnataka State Administrative Tribunal at Kalaburagi (for short, 'the Tribunal') in Application No.20429/2023, whereby the application filed by the respondent is allowed.

2. Brief facts of the case are that the father of the respondent one Sri. Khemu S/o Bheema Singh Rathod was appointed as Assistant Teacher in Government School on 01.08.2002. He died on 04.05.2017 while in service leaving behind his wife, daughter and 3 minor sons. The daughter of the deceased employee has filed an application for appointment on compassionate ground on 12.02.2018. The application filed by the daughter of the deceased employee was within the time limit. By the time the petitioners consider her case for appointment on



compassionate ground, she got married. Therefore, on 16.01.2019, the respondent herein has submitted a representation stating that the compassionate appointment may be given in his favour. Thereafter, the daughter of deceased gave a representation seeking to give employment to her brother in her place. The respondent herein has submitted one more application on 24.01.2020 seeking appointment on compassionate ground. The said application came to be rejected by the petitioners by issuing an endorsement dated 17.11.2021 and 02.06.2023 stating that application filed by the respondent herein is beyond limitation. Being aggrieved by the same, the respondent has filed an application before the Karnataka State Administrative Tribunal under Section 19 of Administrative Tribunal Act in Application No.20429/2023. The Tribunal vide order dated 02.02.2024 allowed the application and directed the petitioners to consider the application of the respondent



for compassionate appointment. Being aggrieved by the same, State has preferred this writ petition.

3. Learned Additional Government Advocate appearing for the petitioners contended that as per Rule 5 of the Karnataka Civil Services (Appointment on Compassionate Grounds) Rules, 1996 (for short, 'the Rules, 1996'), the dependent family member of the deceased employee has to file an application within one year from the date of death of the employee. The application filed by the respondent is beyond one year. Therefore, he is not entitled to be considered for appointment on compassionate ground under the Rules, 1996. Without considering this provision, the Tribunal has erred in allowing the application.

Secondly, he contended that the appointment on compassionate ground cannot be claimed as a matter of right. Since the employee died in the year 2017, the application is filed after three years of his death. Now after



three years, they cannot claim that the family of the deceased is in financial crisis. Considering this aspect of the matter, he contended that the petitioners have rightly issued the endorsement. Hence, he sought for allowing the petition.

4. *Per Contra*, learned counsel appearing for the respondent has contended that the application filed by the daughter of the deceased on 12.02.2018 is within the time limit prescribed under the Rules, 1996. Even after two years of death of her father, the petitioners have not considered her application. By that time, she got married and therefore, her brother i.e., the respondent herein has to take care of the entire family, therefore, the daughter Priyanka and respondent have submitted representations seeking replacement of the name of respondent in place of Priyanka. Therefore, it does not amount to making any fresh application. In support of his contention, he relied upon the decision of the Full Bench of Bombay High Court of Nagpur Bench in the case of ***Sandhya Gajanan***



Lahane and Another vs. The State of Maharashtra and Others reported in ***AIR Online 2024 BOM 682*** and also the decision of the Madras High Court in the case of ***R.Visoliya vs. State of Tamil Nadu and Others*** reported in ***2017 SCC Online MAD 13461***. Hence, he sought for dismissal of the writ petition.

5. Heard the learned counsel for the parties and perused the writ papers.

6. It is not in dispute that respondent's father was working as Assistant Teacher in Government school. He died on 04.05.2017 while in service leaving behind his wife, daughter Priyanka and three minor sons. As per Rule 5 of the Rules, 1996, the dependent of the family of the deceased employee has to file an application within one year from the date of death of the Government servant. In case of minor, he must have attained the age of 18 years within one year from the date of death of a Government servant and he must make an application



within one year thereafter. The daughter of the deceased employee has filed an application on 12.02.2018 within one year from the date of death of her father. Even after two years of filing the application, the petitioners have not made appointment of Priyanka on compassionate ground. By that time, she got married and the respondent who is the son of the deceased has to take care of the entire family. Therefore, daughter of the deceased employee Priyanka and respondent have filed representation on 16.01.2019 seeking substitution of the name of the respondent in place of Priyanka. Thereafter, the respondent also filed one more representation on 24.01.2020. The representation filed by the respondent cannot be treated as a fresh application. It is only seeking substitution of the name.

7. Similar issue has arisen before the Bombay High Court. The said issue has been referred to the Full Bench. The Full Bench of the Bombay High Court in the case of ***Sandhya Gajanan Lahane*** (supra) has held that



subsequent application is only a substitution and it cannot be treated as a fresh application. The relevant paragraphs 22 to 27 are extracted hereunder for easy reference:

"22. In the above-referred backdrop, if we see the meaning of the word 'substitution', it would mean 'to replace with another' or 'one who stands in another's place' or 'the process by which one person takes the place of another person'.

23. Thus, it is evident that, if a family member of the deceased/incapacitated employee applies for substitution of his name with another family member, it cannot be treated as a fresh application or subsequent application or it cannot be implied that more than one member is seeking compassionate appointment.

24. The scheme permits compassionate appointment to one eligible legal heir of the deceased/incapacitated employee with an object to enable the family to tide over the sudden financial crisis. In the circumstances, if substitution is permitted, it would amount to replacement of name by another name. As substitution does not amount to making of a fresh application or staking a claim by more than one legal heir of the deceased, it cannot



be said that substitution would run counter to the purpose and object of compassionate appointment.

25. From the purpose and object of the compassionate Judgment 27 WP-3701- 2022-FB-F1.odt appointment, it is evident that, some source of livelihood is to be provided to any one member of the family to make both ends meet. In case of substitution, the name of another member would be substituted in the wait list in place of earlier member. In that eventuality also the employment will be provided to only one member, as per policy. Therefore, it cannot be said that, substitution would defeat the object of compassionate appointment.

26. Furthermore, keeping in mind the object and purpose of the appointment on compassionate ground, that is to provide succour to the family, it does not matter whether the employment is provided to X member of the family or Y member of the family as long as the scheme permits to provide employment to any one member of the family. If the substitution is permitted, the only change which will occur is that the name of 'X' will be replaced by 'Y' member and nothing beyond that.

27. It is for the family to decide which member of the family should seek the employment on behalf of the family. Therefore, a rigid approach to not allow any



substitution to take place is not an appropriate measure of providing succour and help to the family of the deceased government servant, which is the very object and rationale behind the scheme."

8. Similar issue has been considered by the High Court of Tamil Nadu in ***R. Visoliya's*** case (supra) and the same has also been referred by the Tribunal. The Tribunal in its order at paragraph No.13 has observed as under:

*"13. Now the question that arises for consideration is whether the application given by the applicant subsequent to the application of his sister becomes continuous application or a separate application. As such, we have gone through the decision of the Hon'ble High Court of Madras in the case of **R. Visoliya vs. State of Tamil Nadu (W.P.No.186/2015 decided on 02.03.2017.** Paras 5 & 6 are relevant for our purpose and they read as under:*

5. There is also one other feature which we require to notice, relating to who amongst the surviving members of the family should seek appointment on compassionate basis. That is a matter of choice amongst the surviving members of the family. However, the obligation thrust



upon the person so chosen is that he shall undertake to look after the well-being and welfare of all the members of the family of the deceased Government servant, thereafter. When once the choice rests with the family members, may be, initially a particular member may have opted or chosen to shoulder all the responsibilities of the family. But if the appointment is not forthcoming immediately in favour of such a chosen person, there can be a change in the consideration of the factors relevant for securing appointment by the family members. For instance, if there is a grown up female child in the family and if that female child has attained the necessary age of atleast 18 years to render herself eligible for seeking appointment, in the meantime, the claims of such a female child can be requested to be considered in place of the earlier chose person. For that, the already distressed family may consider that it would be more appropriate and suitable to ask for appointment in favour of a female child in the family rather than a male child for getting the female child married thereafter might become convenient and easy. It is the obligation of the family to get the daughter married. But if the daughter was to be employed



with the Government, the prospects of her getting married in quick time may brighten up. Therefore, so long as no other family member is employed and the family has not yet got over the difficulties created by the sudden departure of the breadwinner, in such circumstances, in our opinion, appropriate substitution of an earlier application by another member of the family, is to be allowed. Take for instance, if the male member in the family who is beyond 18 years of age is in the first year or second year of an Engineering course in the immediate aftermath of the death of the Government and the family may have considered it difficult for allowing him to complete the rest of the course. But if such a member is not appointed immediately and time passes by, he may have reached in his academic career a particular stage where pursuing further the said academic course is far more important and it would outweigh the compulsion of securing employment for himself and consequently, the family members may have preferred to allow the said male member to complete the course of study which he was pursuing and instead seek employment in favour of a female child in the family, who has in the



meantime, attained the minimum age of 18 years required for consideration for such appointment. Therefore, it is not necessary for the family of the deceased Government servant to seek employment only in favour of the eldest male or female member of the deceased Government servant. It may be some cases turn out that the eldest child of the deceased Government servant may not be maintaining a good health condition as well or he may be having any other special disadvantage, which can effectively prevent him from taking the public employment. In these given set of circumstances, the choice to seek employment in favour of one other family member lies with that of the family and no such restriction or impediment can be created by insisting the eldest amongst the surviving family members of the deceased Government servant alone, should seek employment. We are of the firm opinion that the choice should be left to the surviving family members of the deceased Government servant and no rigid approach in that regard is desirable to be adopted.



6. *Similarly, even if an application is made seeking employment in favour of one particular member of the family, before any such appointment is made, the applicant can be allowed to be substituted with that of any other family member as well. It is for the family of the deceased Government servant to choose and a rigid approach not to allow any substitution to take place is not an appropriate measure of providing succor and held to the family of the deceased Government servant, which is the very objective and rationale behind the scheme. There can be imponderable factors as to why an earlier application may not be pursued. Hence, we are of the opinion that the rejection of the proposal by the State Government to regularize the service of the writ petitioner only on the ground that the earlier application is not pursued but substitute application is considered, may not be most appropriate and is also not justified. If the application submitted by one of the family members has already resulted in an order of appointment in favour of such an applicant, at that stage, perhaps substitution may not be warranted or entertained but like in the instant case, where the application made by one*



member of the family seeking appointment on compassionate basis is still pending consideration, any such subsequent application in place of the former one duly obtained with the consent of the earlier/former applicant is liable to be treated as one of substitution but not be treated as a subsequent application or a fresh application or a case of the family making multiple applications."

9. Considering the above decisions and applying the principle to the case on hand, the employee died on 04.05.2017. The application filed by the daughter of the deceased employee on 12.02.2018 is within the time prescribed under Rule 5 of the Rules, 1996. When she filed the application, she was unmarried and when application was under process for appointment on compassionate ground, she got married. Since the responsibilities of taking care of the family of the deceased is on the respondent, therefore, daughter-Priyanka and the respondent have filed the representations seeking for substitution of name of the respondent in place of



Priyanka, and therefore, it cannot be treated as fresh application. Considering this aspect of the matter, the Tribunal has rightly allowed the application filed by the respondent herein. Therefore we find no error or illegality in the order passed by the Tribunal. Hence, the writ petition is devoid of merit and is liable to be dismissed.

10. Accordingly, the Writ Petition is ***dismissed***.

11. The petitioners are directed to comply with the order passed by the Tribunal within three months from the date of receipt of copy of this order.

**Sd/-
(H.T.NARENDRA PRASAD)
JUDGE**

**Sd/-
(TYAGARAJA N. INAVALLY)
JUDGE**