



Serial No. 76
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 31 of 2025

Date of Decision: 01.06.2026

Smti Laxmi Joshi,
D/o (Late) Kedar Nath Joshi,
Of Village Karaibari, Milan More
near Little Angel Public School,
P.O. Champasari P.S. Pradhan Nagar,
District-Darjeeling, Siliguri-734003, West Bengal ... **Petitioner(s)**

Versus

1. The Union of India represented by
The Secretary Ministry of Finance, New Delhi.
 2. The Comptroller & Auditor General of India,
9, Deendayal Upadhaya Marg, New Delhi-110 124
 3. The Accountant General (Audit),
Meghalaya, Shillong-793001.
 4. The Establishment Officer,
O/o The Accountant General (Audit),
Meghalaya, Shillong-793001
- ... Respondent(s)**

Coram:

Hon'ble Mr. Justice H. S. Thangkhiew, Judge

Appearance:

For the Petitioner(s) : Mr. S. Pandit, Adv.

For the Respondent(s) : Mr. K. Kharmawphlang, Adv. with
Ms. E.B. Passah, Adv. (For R 2-4)



i)	Whether approved for reporting in Law journals etc:	Yes/No
ii)	Whether approved for publication in press:	Yes/No

JUDGMENT AND ORDER (ORAL)

1. The brief facts are that the petitioner's father one (L) Kedar Nath Joshi while serving in the office of the Accountant General, Meghalaya, Shillong as Duftry, died in harness on 11.02.2014. The petitioner then applied for appointment on compassionate ground in terms of the Scheme for Compassionate appointment issued by the Government of India. Thereafter, the petitioner as directed, appeared before the Department Screening Committee, but her application was rejected on 11.03.2016 without any reason being cited. The petitioner then approached this Court by filing a writ petition being WP(C) No. 405 of 2016, which was disposed of by order dated 30.06.2017 with the directions that the respondents examine the case and consider the same sympathetically. However, after consideration her application was again rejected by letter dated 28.03.2018, which compelled the petitioner to again approach this Court by a second writ petition being WP(C) No. 230 of 2022, which was disposed of by order dated 16.09.2024, by directing the respondents to revisit the matter and to take



into account the Screening Committee Report dated 09.11.2017, which was favourable to the petitioner. However, vide letter dated 03.01.2025, the case of the petitioner was again rejected. Hence the writ petition.

2. Mr. S. Pandit, learned counsel for the petitioner has submitted that the writ petitioner has been compelled to approach this Court repeatedly, in view of the denial of the grant of compassionate appointment in spite of being eligible for the same. It is further submitted that in spite of the directions of this Court by order dated 16.09.2024 passed in WP(C) No. 230 of 2022, whereby this Court had directed the respondents to revisit the matter specifically taking into account the Departmental Screening Committee Report dated 09.11.2017, the respondents deliberately delayed the process and rejected the case of the petitioner, ignoring the directions of this Court and the recommendations of the Departmental Screening Committee. The learned counsel has then contended that the Departmental Screening Committee, is the only authority to examine the eligibility of the claim, and the respondents by not taking its report into consideration when it was found inconvenient is arbitrary. To illustrate this point, it is submitted that in the affidavit filed by the respondents in WP(C)No. 230 of 2022, two letters dated 10.11.2015 and 22.11.2027 had been annexed which recommended the case of the writ petitioner, and that a



perusal of the report of the Screening Committee dated 09.11.2017, would show that the petitioner was found eligible. However, he submits that in spite of these positive materials in in favour of the petitioner, the respondents without adverting to the same, had on an earlier occasion rejected her case by letter 08.01.2018.

3. The learned counsel has then submitted that the denial for appointment even after the order of this Court, violates the Scheme for compassionate appointment issued under Office Memorandum dated 16.01.2013 by the Department of Post and Telegraph. Reference has been made to Para-11 of the Memorandum, which allows for grant for compassionate appointment even when there is an earning member subject to such restrictions, as contained therein. He therefore prays that appropriate directions be issued to afford compassionate employment to the petitioner.

4. On behalf of the respondents, Mr. K. Kharmawphlang, learned counsel has submitted that, compassionate appointments are governed by a Department of Personnel and Training (DoPT) scheme issued on 16.01.2013, with the primary objective being to provide immediate relief to a family left in penury and without means of livelihood, following the death of a government servant. Reference has been made to paragraph 11 which highlights the earning member rule.



It is submitted that if a family member is already employed, compassionate appointment, is only permitted with the prior approval of the Secretary of the department, who must be satisfied that the family is truly in financial destitution, after evaluating their assets, liabilities and the income of the earning member.

5. It is further submitted that though the petitioner's application was considered by the Departmental Screening Committee in the year 2014 and 2015, the same were not processed further due to the unavailability of vacancies and has also added that even the availability of a vacancy in the compassionate appointment quota, is not the sole basis for consideration as the candidate must also meet the Scheme's requirements. The learned counsel submits that in compliance to the order of this Court passed in WP(C) No. 405 of 2016, the petitioner's case was taken up for consideration and on 09.11.2017, the Departmental Screening Committee met and recommended the petitioner for compassionate appointment, which was however rejected by the competent authority on the ground that the family was not in a state of financial destitution noting that they received an enhanced family pension. Following this Court's directive passed in 16.09.2024, in WP(C) No. 230 of 2022, and taking the Scheme into consideration, the learned counsel submits, a speaking order was passed and re-



conveyed to the writ petitioner, wherein appointment was not accorded as the family was not deemed indigent. It has been contended that as per the speaking order's findings, it was found that the petitioner's claim was not supported by independent verification and that the Welfare Officer's report was based only on statements from the petitioner and her mother.

6. On the aspect of a recommendation by the Departmental Screening Committee, it has been submitted that as per Para-13 of the Scheme for compassionate appointment, the Departmental Screening Committee is not the final authority and that the final decision in 'earning member' cases, rests with the Secretary of the Department. It is lastly argued that because the petitioner's family had an earning member and a stable enhanced pension until 2024, the immediate emergency required for compassionate appointment no longer existed. Reference has been made to the case of *Local Administration Department vs. M. Selvanayagam @ Kumaravel (Civil Appeal No. 2206 of 2006)*, wherein the Supreme Court held that appointments made many years after an employee's death without considering the family's actual current financial status is quite bad and illegal. Reliance has also been placed in the case of *State of West Bengal vs. Debabrata Tiwari 2023 SCC OnLine SC 219*, wherein it has been observed that



compassionate appointment is a narrow humanitarian exception and not a vested right intended to rescue a family from sudden financial crisis and that immediacy is essential and prolonged delays extinguishes one's claims.

7. On hearing the learned counsel for the parties, and on the arguments advanced, the issue which deserves some consideration is Clause-11 of the Scheme for compassionate appointment dated 16.01.2013. The same for the sake of convenience is reproduced hereinbelow: -

“11. WHERE THERE IS AN EARNING MEMBER

(a) In deserving cases even where there is already an earning member in the family, a dependent family member may be considered for compassionate appointment with prior approval of the Secretary of the Department/Ministry concerned who, before approving such appointment, will satisfy himself that grant of compassionate appointment is justified having regard to number of dependents, assets and liabilities left by the Government servant, income of the earning member as also his liabilities including the fact that the earning member is residing with the family of the Government servant and whether he should not be a source of support to other members of the family.

(b) In cases where any member of the family of the deceased or medically retired Government servant is already in employment and is not supporting the other members of the family of the Government servant, extreme caution has to be observed in ascertaining the economic distress of the members of the family of the Government servant so that the facility of appointment on compassionate ground is not circumvented and misused by putting forward the ground that the member



of the family already employed is not supporting the family.”

8. A perusal of the above noted clause, would show that the Scheme makes a provision for granting compassionate appointment even when there is an earning member in the family, but the same would be only after due consideration and with the prior approval of the Secretary of the Department. Clause 11(b) has however put in a caveat that extreme caution has to be observed in ascertaining the economic distress of the members of the family so that the facility of appointment on compassionate grant is not misused.

9. In the case of the petitioner as the matter revolves around the determination of financial distress by the authority concerned which involves relaxation of the norms where there is an earning member in the family at the relevant point of time, the sequence of events that have occurred since the application was made will also have to be looked into, inasmuch as, there has been a considerable lapse of time since the initial application was made by the writ petitioner.

10. First the petitioner's father had expired on 11.02.2014 and pursuant to an application, the petitioner had appeared before the Departmental Screening Committee on multiple occasions i.e. on 23.12.2014, 21.08.2015 and 25.08.2015, whereafter the same came to



be rejected on 11.03.2016 on not being acceded to by the competent authority. A representation was then preferred on 30.03.2016, seeking reconsideration to which there was no response. This led to WP(C) No. 405 of 2016, wherein this Court by order dated 30.06.2016, directed the respondents to consider the representation and her case, sympathetically. As per the Court's directions, the representation was disposed of by rejecting the petitioner's prayer vide letter dated 28.03.2018, on the ground that there was an earning member in the family and also that the family was entitled to family pension at an enhanced rate till 11.02.2024, and there being no liabilities on the family, no approval was accorded for appointment on compassionate ground by the competent authority.

11. Thereafter, a fresh writ petition being WP(C) No. 230 of 2022, was filed by the petitioner against the rejection, wherein this Court by order dated 16.09.2024, directed the respondents to revisit the matter taking into account the Screening Committee Report dated 09.11.2017, where her case had been recommended. The findings of the Departmental Screening Committee which recommended the case in 2017, had recorded that taking into account the Welfare Officer's Report, her case be considered against the existing vacancy for the period from 01.04.2017 to 30.03.2018. The competent authority



thereafter, by order dated 03.01.2025, in compliance with the order of this Court after revisiting the matter, did not grant approval on the ground that the Departmental Screening Committee, had not justified the recommendations to offer appointment to the petitioner on compassionate ground by relaxing the norms where there is an earning member of the family in terms of Para-11 of the Scheme for compassionate appointment.

12. In the backdrop of the sequence of events, it would be seen that the recommendations had been rejected by the competent authority, and lastly by a speaking order, which was conveyed to the petitioner on 03.01.2025, as the family was not deemed indigent and further it was emphasized that the petitioner's claim of being unsupported was not supported by any independent verification and it was noted that the Welfare Officer's report was based only on verbal statements from the petitioner and her mother. Though the instant case is to be viewed from the perspective of Clause-11 of the Scheme for Compassionate appointment, however what cannot be lost sight of is the essence and the basics of the circumstances which would warrant the grant of compassionate appointment. In this regard, the judgment of the Supreme Court rendered in the case of *State of West Bengal vs. Debrabata Tiwari* (supra) may be referred to which has laid down the



rationale behind the Scheme and considerations that guide determination of claims for compassionate appointment. Paragraphs 31, 32, 33, 34 & 35 are reproduced hereinbelow: -

31. It may be apposite to refer to the following decisions of this Court, on the rationale behind a policy or scheme for compassionate appointment and the considerations that ought to guide determination of claims for compassionate appointment.

i. In Sushma Gosain v. Union of India [Sushma Gosain v. Union of India, (1989) 4 SCC 468 : 1989 SCC (L&S) 662] , this Court observed that in all claims for appointment on compassionate grounds, there should not be any delay in appointment. That the purpose of providing appointment on compassionate grounds is to mitigate the hardship caused due to the death of the bread earner in the family. Such appointment should, therefore, be provided immediately to redeem the family in distress.

ii. In Umesh Kumar Nagpal v. State of Haryana [Umesh Kumar Nagpal v. State of Haryana, (1994) 4 SCC 138 : 1994 SCC (L&S) 930] , this Court observed that the object of granting compassionate employment is to enable the family of a deceased government employee to tide over the sudden crisis by providing gainful employment to one of the dependants of the deceased who is eligible for such employment. That mere death of an employee in harness does not entitle his family to such source of livelihood; the Government or the public authority concerned has to examine the financial condition of the family of the deceased and it is only if it is satisfied that, but for the provision of employment, the family will not be able to meet the crisis, that a job is to be offered to the eligible member of the family, provided a scheme or rules provide for the same. This Court further clarified in the said case that compassionate appointment is not a vested right which can be exercised at any time after the death of a government servant. That the object being to enable the family to get over the financial crisis which it faces at the time of the death of



the sole breadwinner, compassionate employment cannot be claimed and offered after lapse of considerable amount of time and after the crisis is overcome.

iii. In Haryana SEB v. Hakim Singh [Haryana SEB v. Hakim Singh, (1997) 8 SCC 85 : 1998 SCC (L&S) 31] (“Hakim Singh”) this Court placed much emphasis on the need for immediacy in the manner in which claims for compassionate appointment are made by the dependants and decided by the authority concerned. This Court cautioned that it should not be forgotten that the object of compassionate appointment is to give succour to the family to tide over the sudden financial crisis that has befallen the dependants on account of the untimely demise of its sole earning member. Therefore, this Court held that it would not be justified in directing appointment for the claimants therein on compassionate grounds, fourteen years after the death of the government employee. That such a direction would amount to treating a claim for compassionate appointment as though it were a matter of inheritance based on a line of succession.

iv. This Court in State of Haryana v. Ankur Gupta [State of Haryana v. Ankur Gupta, (2003) 7 SCC 704 : 2003 SCC (L&S) 1165] held that in order for a claim for compassionate appointment to be considered reasonable and permissible, it must be shown that a sudden crisis occurred in the family of the deceased as a result of death of an employee who had served the State and died while in service. It was further observed that appointment on compassionate grounds cannot be claimed as a matter of right and cannot be made available to all types of posts irrespective of the nature of service rendered by the deceased employee.

v. There is a consistent line of authority of this Court on the principle that appointment on compassionate grounds is given only for meeting the immediate unexpected hardship which is faced by the family by reason of the death of the bread earner vide Jagdish Prasad v. State of Bihar [Jagdish Prasad v. State of Bihar, (1996) 1 SCC 301 : 1996 SCC (L&S) 303] . When an appointment is made on



compassionate grounds, it should be kept confined only to the purpose it seeks to achieve, the idea being not to provide for endless compassion, vide I.G. (Karmik) v. Prahalad Mani Tripathi [I.G. (Karmik) v. Prahalad Mani Tripathi, (2007) 6 SCC 162 : (2007) 2 SCC (L&S) 417]. In the same vein is the decision of this Court in Mumtaz Yunus Mulani v. State of Maharashtra [Mumtaz Yunus Mulani v. State of Maharashtra, (2008) 11 SCC 384 : (2008) 2 SCC (L&S) 1077], wherein it was declared that appointment on compassionate grounds is not a source of recruitment, but a means to enable the family of the deceased to get over a sudden financial crisis.

vi. In State of J&K v. Sajad Ahmed Mir [State of J&K v. Sajad Ahmed Mir, (2006) 5 SCC 766 : 2006 SCC (L&S) 1195], the facts before this Court were that the government employee (father of the applicant therein) died in March 1987. The application was made by the applicant after four-and-half years in September 1991 which was rejected in March 1996. The writ petition was filed in June 1999 which was dismissed by the learned Single Judge in July 2000. When the Division Bench decided the matter, more than fifteen years had passed from the date of death of the father of the applicant. This Court remarked that the said facts were relevant and material as they would demonstrate that the family survived in spite of death of the employee. Therefore, this Court held that granting compassionate appointment after a lapse of a considerable amount of time after the death of the government employee, would not be in furtherance of the object of a scheme for compassionate appointment.

vii. In Shashi Kumar [State of H.P. v. Shashi Kumar, (2019) 3 SCC 653 : (2019) 1 SCC (L&S) 542], this Court speaking through Dr D.Y. Chandrachud, J. (as his Lordship then was) observed that compassionate appointment is an exception to the general rule that appointment to any public post in the service of the State has to be made on the basis of principles which accord with Articles 14 and 16 of the Constitution. That the basis of the policy is that it recognises that a family of a deceased employee may be placed in a position of financial hardship upon the untimely death of



the employee while in service. That it is the immediacy of the need which furnishes the basis for the State to allow the benefit of compassionate appointment. The pertinent observations of this Court have been extracted as under : (SCC pp. 670-71, para 35)

“41. Insofar as the individual facts pertaining to the respondent are concerned, it has emerged from the record that the writ petition before the High Court was instituted on 11-5-2015. The application for compassionate appointment was submitted on 8-5-2007. On 15-1-2008 the Additional Secretary had required that the amount realised by way of pension be included in the income statement of the family. The respondent waited thereafter for a period in excess of seven years to move a petition under Article 226 of the Constitution. In Umesh Kumar Nagpal [Umesh Kumar Nagpal v. State of Haryana, (1994) 4 SCC 138 : 1994 SCC (L&S) 930], this Court has emphasised that the basis of a scheme of compassionate appointment lies in the need of providing immediate assistance to the family of the deceased employee. This sense of immediacy is evidently lost by the delay on the part of the dependant in seeking compassionate appointment.”

32. On consideration of the aforesaid decisions of this Court, the following principles emerge:

i. That a provision for compassionate appointment makes a departure from the general provisions providing for appointment to a post by following a particular procedure of recruitment. Since such a provision enables appointment being made without following the said procedure, it is in the nature of an exception to the general provisions and must be resorted to only in order to achieve the stated objectives i.e. to enable the family of the deceased to get over the sudden financial crisis.

ii. Appointment on compassionate grounds is not a source of recruitment. The reason for making such a benevolent scheme by the State or the public sector undertaking is to see that the dependants of the deceased are not deprived of the



means of livelihood. It only enables the family of the deceased to get over the sudden financial crisis.

iii. Compassionate appointment is not a vested right which can be exercised at any time in future. Compassionate employment cannot be claimed or offered after a lapse of time and after the crisis is over.

vi. That compassionate appointment should be provided immediately to redeem the family in distress. It is improper to keep such a case pending for years.

v. In determining as to whether the family is in financial crisis, all relevant aspects must be borne in mind including the income of the family, its liabilities, the terminal benefits if any, received by the family, the age, dependency and marital status of its members, together with the income from any other source.

33. The object underlying a provision for grant of compassionate employment is to enable the family of the deceased employee to tide over the sudden crisis due to the death of the bread-earner which has left the family in penury and without any means of livelihood. Out of pure humanitarian consideration and having regard to the fact that unless some source of livelihood is provided, the family would not be in a position to make both ends meet, a provision is made for giving gainful appointment to one of the dependants of the deceased who may be eligible for such appointment. Having regard to such an object, it would be of no avail to grant compassionate appointment to the dependants of the deceased employee, after the crisis which arose on account of death of a breadwinner, has been overcome. Thus, there is also a compelling need to act with a sense of immediacy in matters concerning compassionate appointment because on failure to do so, the object of the scheme of compassionate appointment would be frustrated. Where a long lapse of time has occurred since the date of death of the deceased employee, the sense of immediacy for seeking compassionate appointment would cease to exist and thus lose its significance and this would be a relevant circumstance which must weigh with the



authorities in determining as to whether a case for the grant of compassionate appointment has been made out for consideration.

34. As noted above, the sine qua non for entertaining a claim for compassionate appointment is that the family of the deceased employee would be unable to make two ends meet without one of the dependants of the deceased employee being employed on compassionate grounds. The financial condition of the family of the deceased, at the time of the death of the deceased, is the primary consideration that ought to guide the authorities' decision in the matter.

35. Considering the second question referred to above, in the first instance, regarding whether applications for compassionate appointment could be considered after a delay of several years, we are of the view that, in a case where, for reasons of prolonged delay, either on the part of the applicant in claiming compassionate appointment or the authorities in deciding such claim, the sense of immediacy is diluted and lost. Further, the financial circumstances of the family of the deceased, may have changed, for the better, since the time of the death of the government employee. In such circumstances, courts or other relevant authorities are to be guided by the fact that for such prolonged period of delay, the family of the deceased was able to sustain themselves, most probably by availing gainful employment from some other source. Granting compassionate appointment in such a case, as noted by this Court in Hakim Singh [Haryana SEB v. Hakim Singh, (1997) 8 SCC 85 : 1998 SCC (L&S) 31] would amount to treating a claim for compassionate appointment as though it were a matter of inheritance based on a line of succession which is contrary to the Constitution. Since compassionate appointment is not a vested right and the same is relative to the financial condition and hardship faced by the dependants of the deceased government employee as a consequence of his death, a claim for compassionate appointment may not be entertained after lapse of a considerable period of time since the death of the government employee.”



13. What emerges from the judgment quoted above and the numerous judgments referred to therein, is that the Policy recognizes the financial hardships that the family of a deceased employee may be put to on account of the demise of the breadwinner while in service, and the immediacy of the need. The same is an important consideration to allow the benefit of compassionate appointment and as such therefore, when applications for compassionate appointment are still pending after several years and though the delay may be due to various factors, the immediacy in the situation would no longer exist, as no situation can remain constant. In the instant case as observed above and on the consideration that as per Para-13 (xv) of the Scheme that the recommendations of the Departmental Screening Committee be placed before the Competent Authority, which therefore would be the final authority, the case of the petitioner was rejected primarily on the question of the family having an earning member. Further, taking into account the passage of time and also the fact that compassionate appointment is a narrow exception and not a vested right intended to rescue families from sudden financial crisis, this Court is of the view that the rejection by the Competent Authority is sustainable. In the considered view of this Court, Clause-11 of the Scheme not having been conclusively met and the Competent Authority being the final authority



in such matters, and the sense of immediacy having been lost, inasmuch as, over a decade has elapsed since the employee's death in 2014, the rejection of the petitioner's case by the Competent Authority is not interfered with and the writ petition accordingly stands dismissed.

14. No order as to costs.

JUDGE

Meghalaya
01.06.2026
"V. Lyndem-PS"