



CGHC010071022026



2026:CGHC:44421

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 2013 of 2026

Khileshwar Prasad S/o Late Shri Paras Ram Aged About 35 Years R/o South Vasundhara Nagar- Bhilai-3 Tahsil- Bhilai- 3, District- Durg (C.G.)

... Petitioner

versus

1 - State of Chhattisgarh Through The Secretary, Urban Administration and Development Department, Mahanadi Bhawan Mantralay, Atal Nagar, Nawa Raipur District Raipur (C.G.)

2 - The Joint Director Urban Administration and Development Department, Indrawati Bhawan Mantralay, Atal Nagar, Nawa Raipur, District Raipur (C.G.)

3 - The Collector Durg District- Durg (C.G.)

4 - The Commissioner Municipal Corporation Bhilai- Charoda District Durg (C.G.)

5 - Dumesh Kumar Tandon S/o Late Shri Paras Ram, R/o South Vasundhara Nagar- Bhilai-3 Tahsil- Bhilai-3, District- Durg (C.G.)

... Respondents

For Petitioner	:	Mr. Sunil Tripathi, Advocate
For State/Respondent Nos. 1 to 3	:	Ms. Sakshi Bajpai, PL
For Respondent No.4	:	Mr. Bhaskar Payashi, Advocate
For Respondent No.5	:	Mr. Pratik Modi, Advocate

(Hon’ble Shri Justice Bibhu Datta Guru)

Order on Board

14/10/2026

1. The present writ petition has been filed under Article 226 of the Constitution of India, calling in question the legality and validity of the memorandum dated 15.04.2025 issued by the respondent authorities in relation to the petitioner's claim for appointment on compassionate grounds consequent upon the death of his father, late Shri Paras Ram, who was serving as an Assistant Revenue Inspector and died in harness on 29.09.2023. The petitioner seeks appropriate directions for consideration of his claim in accordance with the applicable policy governing compassionate appointment.
2. The facts, in brief, are that the father of the petitioner, late Shri Paras Ram, was employed as an Assistant Revenue Inspector with the concerned establishment. Upon his death in harness on 29.09.2023, the petitioner submitted an application dated 04.12.2023 seeking appointment on compassionate grounds. The claim was required to be examined by the competent authority in accordance with the applicable rules, policy and the prescribed eligibility conditions. It appears from the material placed on record that respondent No. 4, the Municipal Corporation, Bhilai-Charoda, was concerned with the consideration of the petitioner's claim. The petitioner's brother, who is arrayed as respondent No. 5 in this petition, also raised an objection in relation to the claim for compassionate appointment. The authority thereafter issued the impugned memorandum dated 15.04.2025. Being aggrieved by the decision taken in the matter, the petitioner has approached this Court.
3. Learned counsel for the petitioner submits that the petitioner's application was required to be considered in accordance with the

governing compassionate-appointment policy and that the existence of an objection raised by his brother could not, by itself, absolve the competent authority of its obligation to examine the claim in accordance with law. It is contended that the claim ought to have been considered on the basis of the applicable rules, the petitioner's eligibility and the relevant material available on record.

4. Learned counsel further submits that the petitioner has placed reliance upon the decision of this Court in **Piyush Kumar Anchal v. State of Chhattisgarh & Others, reported in 2022 (4) C.G.L.J. 172**, in support of the contention that competing claims for compassionate appointment must be examined in accordance with the governing policy and that the authority cannot decline consideration without applying the relevant principles of law.
5. *Per contra*, learned State counsel submits that the petitioner's claim for compassionate appointment is required to be considered in accordance with the applicable rules and policy governing compassionate appointment. It is further submitted that the competent authority shall act in accordance with law and the directions issued by this Court.
6. Learned counsel for Respondent No. 4 submits that the petitioner's father, late Shri Paras Ram, died in harness on 29.09.2023 while working as an Assistant Revenue Inspector. The petitioner applied for compassionate appointment on 04.12.2023. However, Respondent No. 5, the petitioner's real brother, raised an objection on 15.07.2024, claiming a competing entitlement to compassionate appointment. It is submitted

that, in view of the *inter se* dispute among the family members and the requirement of consent under the applicable policy, Respondent No. 4 issued the impugned memorandum dated 15.04.2025. Learned counsel submits that the authority is willing to consider the petitioner's application upon resolution of the family dispute or in accordance with appropriate directions issued by this Court. Accordingly, dismissal of the petition is prayed for.

7. Learned counsel for Respondent No. 5 also opposes the petition, submitting that Respondent No. 5 is also unemployed and was dependent upon the deceased employee. It is contended that the petitioner applied for compassionate appointment without obtaining Respondent No. 5's consent or no-objection and without furnishing the undertaking referred to under Rule 15(13) of the applicable rules. Learned counsel further submits that, in view of the competing claims within the family and the applicable provisions governing compassionate appointment, the petitioner cannot claim appointment to the exclusion of Respondent No. 5. Accordingly, the instant writ petition may be dismissed.
8. I have heard learned counsel for the parties and perused the documents.
9. The question which arises for consideration is whether the impugned memorandum dated 15.04.2025 can be sustained when the petitioner's claim is required to be determined in accordance with the governing compassionate-appointment policy and there is an objection by another member of the deceased employee's family.
10. It is well settled that compassionate appointment is an exception to the

general rule of recruitment through an open and competitive process. It is intended to provide immediate assistance to the family of a deceased employee in order to mitigate the financial hardship caused by the employee's death in harness. Such appointment is not an inheritable right, nor does every dependent of a deceased employee acquire an indefeasible right to appointment merely by reason of the death of the employee. The claim must necessarily be examined in accordance with the applicable scheme, including the prescribed eligibility conditions, the financial circumstances of the family and the procedure governing the consideration of competing claims.

11. In the present case, the petitioner's application dated 04.12.2023 followed the death of his father on 29.09.2023. The application was, therefore, required to be dealt with by the competent authority in accordance with the applicable policy. Where an objection is raised by another family member, the authority is required to ascertain the nature of the objection, determine whether the objector has submitted an independent claim for compassionate appointment and examine the respective claims in accordance with the governing rules.
12. The mere existence of a dispute between family members cannot substitute for the decision which the competent authority is required to take under the applicable scheme. Equally, the authority cannot ignore a genuine competing claim where the governing policy requires such claim to be considered. The matter must be determined on the basis of the relevant rules and the material available on record, rather than by treating the objection itself as conclusive.

13. The aforesaid issue has been considered by this Court in **Piyush Kumar Anchal** (supra). In that case, the deceased government servant had left behind two sons who had independently sought compassionate appointment. The competent authority had directed the claimants to obtain a succession certificate, and the subsequent decision rejecting the petitioner's application on that ground was challenged before this Court.
14. After considering the applicable government circulars and the decisions of the Supreme Court in *Union of India v. V.R. Tripathi*, AIR 2019 SC 666, and *Mukesh Kumar v. Union of India*, Civil Appeal No. 1620 of 2022, decided on 24.02.2022, this Court examined the manner in which rival claims for compassionate appointment were required to be considered. The Court held, with reference to the policy applicable in that case, that the claim of the elder brother was required to be considered first and that the claim of the younger brother would arise for consideration if the elder brother's claim was rejected. The Court accordingly set aside the impugned order and remitted the matter to the competent authority for consideration of both applications in accordance with law.
15. The decision in *Piyush Kumar Anchal* (supra) is relevant to the extent that it emphasises the obligation of the competent authority to determine competing claims for compassionate appointment in accordance with the applicable policy and the prescribed order of preference, where such preference is provided for by the governing scheme. The decision does not, however, confer an automatic right to appointment upon either claimant, nor can the order of preference laid down with reference to a

particular policy be mechanically applied without examining the scheme governing the present case.

16. Consequently, the competent authority in the present matter must ascertain whether respondent No. 5 has submitted an independent application for compassionate appointment and whether the applicable policy prescribes any order of priority between the petitioner and his brother. If the policy prescribes such priority, the authority must give effect to it. If no such priority is prescribed, the claims must be examined in accordance with the other relevant provisions of the applicable scheme. The decision must be based on the governing policy and the facts of the case, and not merely on the fact that an objection has been raised by respondent No. 5.
17. It is also material that the petitioner has placed reliance upon the widow's consent/affidavit dated 08.10.2026, filed as Annexure P-9. Since the said affidavit is subsequent to the impugned memorandum dated 15.04.2025, it cannot, by itself, establish that the authority committed an error on the basis of material which was not then before it. Nevertheless, the affidavit constitutes material which the competent authority may take into account while undertaking fresh consideration, subject to its admissibility and relevance under the applicable policy. The authority shall examine the contents of the affidavit, the nature of the consent expressed therein, the objection raised by respondent No. 5 and any independent claim made by him. The consent of the widow shall be considered in accordance with the applicable scheme; it shall not be treated as automatically extinguishing the rights of another eligible claimant where the policy

requires that claimant's case to be considered independently.

18. Having regard to the aforesaid facts and circumstances, this Court is of the considered opinion that the petitioner's claim requires consideration strictly in accordance with the applicable compassionate-appointment policy, upon due examination of the competing claims, if any, and the relevant material placed on record. The impugned memorandum dated 15.04.2025 cannot be sustained insofar as the petitioner's claim has not been determined in accordance with the principles set out hereinabove.
19. It is clarified that this Court has not adjudicated upon the petitioner's ultimate entitlement to appointment, nor has it determined the comparative eligibility of the petitioner and respondent No. 5. Those matters fall within the domain of the competent authority, which must take an independent decision in accordance with the governing scheme and the observations made in this order.
20. Accordingly, the writ petition is allowed in the following terms:
 - (i) The impugned memorandum dated 15.04.2025 is hereby set aside.
 - (ii) The competent authority of respondent No. 4, Municipal Corporation, Bhilai-Charoda, shall reconsider the petitioner's application dated 04.12.2023 for appointment on compassionate grounds, in accordance with the applicable rules, policy and instructions governing such appointments.
 - (iii) While undertaking the aforesaid exercise, the

competent authority shall consider the objection raised by respondent No. 5, ascertain whether he has submitted an independent application for compassionate appointment, and determine the respective eligibility of the claimants in accordance with the applicable scheme. The authority shall also consider the widow's consent/affidavit dated 08.10.2026, Annexure P-9, and the other relevant material available on record.

(iv) The competent authority shall bear in mind the principles laid down in *Piyush Kumar Anchal* (Supra), to the extent applicable to the governing policy and the facts of the present case. The decision shall not be based solely upon the existence of a family dispute or objection, but shall be taken by applying the relevant provisions of the scheme to the facts established on record.

(v) The aforesaid exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order, after affording the petitioner and respondent No. 5 an adequate opportunity to place their respective claims and relevant documents before the competent authority.

(vi) The competent authority shall pass a reasoned and speaking order and communicate the same to the

concerned parties. It is made clear that the petitioner shall not be treated as automatically entitled to appointment merely on account of the setting aside of the impugned memorandum; his entitlement shall depend upon the outcome of the fresh consideration in accordance with the applicable policy.

21. Nothing observed in this order shall be construed as an expression of opinion on the ultimate merits of the competing claims, and the competent authority shall decide the matter independently, uninfluenced by any observation except to the extent of the legal principles expressly stated herein.
22. Accordingly, the writ petition stands **allowed** in the above terms. No cost(s).

SD/-
(Bibhu Datta Guru)
JUDGE

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