

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF JULY, 2026

PRESENT

THE HON'BLE MR. JUSTICE S.G.PANDIT

AND

THE HON'BLE MR. JUSTICE RAJESH RAI K

WRIT PETITION NO. 5541 OF 2024 (S-KSAT)

BETWEEN:

ABHISHEK. S
S/O. LATE SHANTHA. B,
AGED ABOUT 20 YEARS,
R/AT NO. 350,
KANTHARAJ URS TEMPLE,
RAMANUJA ROAD,
KILLE MOHALLA,
MYSURU-570 004.

...PETITIONER

(BY SRI. VIGNESHWAR S SHASTRI, SR. COUNSEL FOR
SRI N KUMAR, ADV.)

AND:

1. THE DIRECTOR GENERAL AND
INSPECTOR GENERAL OF POLICE
NRUPATHUNGA ROAD,
BENGALURU-560 001.
2. THE COMMISSIONER OF POLICE
MIRJA ROAD, NAZARBAD,
MYSURU-570 010.

...RESPONDENTS

(BY SRI. V SHIVAREDDY, AGA FOR R1 & R2)

THIS PETITION IS FILED UNDER ARTICLES 226 AND 227 OF
THE CONSTITUTION OF INDIA PRAYING TO I) ISSUE A WRIT OF
CERTIORARI OR ANY OTHER ORDER OR DIRECTION LIKE IN THE
NATURE OF CERTIORARI QUASHING THE IMPUGNED ORDER DATED
19/10/2023 MADE IN APPLICATION NO.3335/2023 PASSED BY THE
KARNATAKA STATE ADMINISTRATIVE TRIBUNAL, BENGALURU,

Digitally signed by
NANJUNDACHARI
Location: High
Court of
Karnataka

BEING ARBITRARY, ERRONEOUS AND THE SAME IS OPPOSED TO LAW, EQUITY AND JUSTICE VIDE ANNEXURE-A AND ETC.

THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDER ON **29.06.2026** COMING ON THIS DAY, **S.G.PANDIT J.**, PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE S.G.PANDIT
AND
HON'BLE MR. JUSTICE RAJESH RAI K

CAV JUDGMENT

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

The petitioner aggrieved by order dated 19.10.2023 in Application No.3335/2023 passed by the Karnataka State Administrative Tribunal at Bengaluru (for short, 'the Tribunal') rejecting his prayer to quash endorsement dated Nil-03.2023, wherein request of the petitioner for compassionate ground appointment is rejected.

2. Brief facts of the case are that, it is stated that the petitioner is an adopted son of one late Shantha, who was working as Superintendent in the office of the Commissioner of Police, Mysuru. She died while in service on 28.05.2020. The adoption deed dated 31.07.2017 is placed on record as Annexure-A1. The petitioner submitted application seeking compassionate appointment

on 24.02.2022 on attaining age of majority and the said application for compassionate appointment was rejected by endorsement dated 04.03.2022 on the ground that the petitioner has not attained the age of majority within one year from the date of death of his mother. The said endorsement was the subject matter of Application No.2132/2022 before the Tribunal. The Tribunal by order dated 19.09.2022 allowed the application and quashed the endorsement directing to consider the case of the petitioner for appointment on compassionate ground, if he is otherwise eligible. On re-consideration of the petitioner's case for compassionate appointment, again by endorsement dated Nil.03.2023 (Anexure-A8), the case of the petitioner for compassionate appointment was rejected on the ground that adopted son or daughter of a deceased Government servant shall not be eligible for compassionate appointment. Questioning the said endorsement, the petitioner was before the Tribunal and the Tribunal under the impugned order rejected petitioner's prayer on the ground that the petitioner has

not made the application within prescribed time. Questioning the said order of the Tribunal and the endorsement of the authorities rejecting his prayer for compassionate appointment, the petitioner is before this Court in this writ petition.

3. Heard learned senior counsel Sri.Vigneshwar S. Shastri for Sri.N.Kumar, learned counsel for the petitioner and learned Additional Government Advocate Sri.V.Shivareddy for respondent Nos.1 and 2. Perused the entire writ petition papers.

4. Learned senior counsel Sri.Vigneshwar S. Shastri for petitioner would contend that the Tribunal failed to appreciate the amended provision to Karnataka Civil Services (Appointment on Compassionate Grounds) Rules, 1996 (for short, 'Rules, 1996'). He submits that under notification dated 09.04.2021 (Annexure-A9), certain amendments were brought to Rules, 1996. By the said amendment, provision was made to provide compassionate appointment in the case of deceased

female Government servant to the son or daughter who is chosen by the widower of the deceased Government servant, which includes the adopted son or daughter. Further, he submits that Rule 5 of Rules, 1996 was also amended providing two years time to a minor to apply for compassionate appointment, if he attains majority within two years from the date of death of the Government servant. Therefore, learned senior counsel would submit that the respondents could not have rejected the request of the petitioner for compassionate appointment. In that regard, learned senior counsel places reliance on the decision of this Court in the case of **THE STATE OF KARNATAKA AND OTHERS VS. RAMYA (W.P.No.20185/2024 DATED 02.02.2026)** and **SMT.A.R.BHANUMATHI VS. THE STATE OF KARNATAKA AND OTHERS (W.P.No.15961/2022 DATED 23.08.2024)**.

5. On the contrary, learned Additional Government Advocate Sri.V.Shivareddy would submit that, the petitioner has not attained the age of majority within one year from the date of death of the Government servant

and the application for compassionate appointment made by the petitioner is after the expiry of time prescribed under the Rules. Further, learned Additional Government Advocate would submit that the Government servant died on 28.05.2020 and as on the said date, there was no provision for appointment of an adopted son or daughter on compassionate ground. Thus, he would pray for dismissal of the writ petition.

6. On hearing the learned counsel appearing for the parties and on perusal of the entire writ petition papers, the following point would arise for our consideration:

Whether in terms of amended provision under Notification dated 09.04.2021 (Annexure-A9), petitioner would be entitle for consideration of his case for compassionate appointment?

7. Answer to the above point would be in the affirmative for the following reasons:

Admittedly, the mother of the petitioner was working as Superintendent in the office of the Commissioner of Police, Mysuru and she died while in service on

28.05.2020. It is not in dispute that the petitioner is an adopted son of the deceased Government servant. The compassionate appointment in the State of Karnataka is governed by Rules, 1996. Prior to April, 2021, there was no provision for consideration of the case of an adopted son for compassionate appointment. However, by way of amendment called the Karnataka Civil Services (Appointment on Compassionate Grounds) (Amendment) Rules, 2021 under notification dated 09.04.2021 provision was made for compassionate appointment to a son or daughter chosen by the widower of the deceased Government servant. Under the same amendment Rules, Rule 5 of the Rules, 1996 was also amended which reads as follows:

"5. Application for appointment. - Every dependent of a deceased Government Servant, seeking appointment under these rules shall make an application within one year from the date of death of the Government Servant, in such form, as may be notified by the government, from to time, to the Head of the Department under whom the deceased Government Servant was working.

Provided that, in case of a minor he must have attained the age of eighteen years within two years from the date of death of the Government servant and he must make an application within two years thereafter."

In terms of the above amended Rule 5, in case of a dependent of a Government servant seeking appointment on compassionate ground, if he is a minor, he must attain 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.

8. The date of birth of the petitioner as indicated in SSLC marks card (Annexure-A5) is 19.08.2003. He attained majority on 18.08.2021. His mother – Government servant died on 28.05.2020. In terms of the amended Rules, the petitioner attained majority within two years from the date of death of Government servant and his application for compassionate appointment submitted on 24.02.2022 is also within two years from the date of attaining the majority.

9. A Co-ordinate Bench of this Court in ***SMT.A.R.BHANUMATHI*** (supra) on considering the decision of the Hon'ble Apex Court in ***SECRETARY TO GOVERNMENT, DEPARTMENT OF EDUCATION (PRIMARY) AND OTHERS VS. BHEEMESH @ BHEEMAPPA, [(2021) 20 SCC 707]*** held that the amendment brought under 2021 Amended Rules is by way of substitution. Relevant paragraph 8 reads as follows:

"8. To hold that the amendment will have retrospective application, the High Court as well as the Tribunal relied upon a judgment of the Division Bench of the High Court of Karnataka in State of Karnataka v. Akkamahadevamma C.B. [State of Karnataka v. Akkamahadevamma C.B., 2010 SCC OnLine Kar 5308] , etc. But it should be pointed out at the outset that the judgment of the High Court in Akkamahadevamma [State of Karnataka v. Akkamahadevamma C.B., 2010 SCC OnLine Kar 5308] arose out of an amendment to the Karnataka Civil Services (General Recruitment) (57th Amendment) Rules, 2000. By the amendment made on 30-3-2010 to the said Rules, grandson, unmarried granddaughter, daughter in law, widowed daughter and widowed granddaughter were included within the definition of the expression "members of the family" under Explanation 2 of

Rule 9. But the amendment so made on 30-3-2010 expanding the definition of the expression "members of the family" was triggered by an order of the Tribunal which held the unamended rule to be unconstitutional. It is in that context that the amendment made on 30-3-2010 to the Rules issued on 23-11-2000 was held by the High Court to be retrospective in nature."

10. Another Co-ordinate Bench of this Court in ***SMT.LATHA.H.R., VS. THE STATE OF KARNATAKA AND OTHERS*** at paragraphs 6 and 7 has held as follows:

"6. Having considered the contentions advanced by the learned counsel appearing for the parties, we are of the opinion that the finding of the Tribunal that the amendment had only prospective effect and therefore the application cannot be considered, cannot be accepted. The petitioner's application has been rejected only on the ground that she is a married daughter of the deceased government servant. It is not disputed that the provisions of the unamended Rules to the effect only an unmarried daughter could make an application stood struck down as unconstitutional and the said judgment has become final. Thereafter, the Rules have also been amended substituting the words "unmarried daughter" with the word "daughter".

7. In the above view of the matter and in view of the fact of amendment made to the Rules by substitution, we are of the opinion that the rejection of the application for appointment made by the petitioner on the sole ground that she is a married daughter cannot be accepted.”

11. The above decisions of the Co-ordinate Benches would aptly apply to the facts of the present case. Since the amendment brought under notification dated 09.04.2021 is by way of substitution, the benefit of amended rules would be available even to the dependents of the Government servant who died prior to the date of amendment, if application for compassionate appointment is made within the prescribed time under the Rules, 1996 or Amended 2021 Rules. The Tribunal failed to properly appreciate the amended provision i.e., 2021 Rules and to apply the same to the facts of the present case.

12. In the light of the above, we pass the following:

ORDER

a) Writ petition is allowed.

- b) Impugned order passed by the Tribunal dated 19.10.2023 in Application No.3335/2023 is set aside.
- c) Consequently, endorsement bearing No.38 ಸಿಬ್ಬಂದಿ(5)/ಅ.ನೇ/2021-22 dated Nil.03.2023 (Annexure-A8) stands quashed.
- d) The respondents are directed to consider the application of the petitioner for compassionate appointment dated 24.02.2022 and 21.10.2022 in accordance with Rules, 1996 and Amended Rules, 2021 and to appoint the petitioner on compassionate ground appointment to any suitable post, if he is otherwise eligible.

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

**Sd/-
(RAJESH RAI K)
JUDGE**

NC
CT:bms