HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Special Appeal Writ No. 211/2025
CNR: RJHC020167052025 | URN: SAW / 611U / 2025

Umesh Singh S/o Late Shri Umed Singh, R/o Village-Devroad, Via Narhad, Pilani, District-Jhunjhunu (Rajasthan).

----Appellant

Versus

The Director, CSIR-Central Electronics Engineering Research Institution, Pilani, Jhunjhunu, (Rajasthan).

----Respondent

For Appellant(s)	:	Mr. Shashank Bansali for Mr. Rohit Choudhary (Through V.C.)
For Respondent(s)	:	Mr. Krishna Verma

HON'BLE THE ACTING CHIEF JUSTICE MR. SANJEEV PRAKASH SHARMA
HON'BLE MR. JUSTICE CHANDRA SHEKHAR SHARMA

Judgment

12/08/2026

1. The present Special Appeal (Writ) filed by the Appellant assails the judgment[1] dated 09.09.2024 passed by the learned Single Judge whereby the writ petition challenging the rejection of the Appellant's application for compassionate appointment in place of his father who died in harness was dismissed.

2. The brief facts are that the Appellant's father was working as a Technician at the respondent institution for multiple years prior to his demise on 03.03.2005, while he was in service [and when the Appellant (D.O.B 01.08.2002) was 2.5 years old]. With the sudden demise of the family's bread earner, the financial responsibility of the family fell on the Appellant's grandparents, with the grandfather of the Appellant also subsequently passing

1 Umesh Singh S/o Late Shri Umed Singh vs The Director, CSIR-Central Electronics Engineering Research Institution S.B. CWP No. 12681/2024

away. The Appellant, upon attaining the age of majority on 01.08.2020, submitted an application for compassionate appointment on 27.07.2020 and a rejection letter was issued on 28.04.2023 on ground of the incident pertaining to 15 years prior.

3. Learned counsel for the Appellant submits that demise of the family's bread earner left them (comprising of five daughters and a son) in financial distress and the Appellant, being a minor at the time, was ineligible to apply for compassionate appointment (but Respondent's officials verbally assured consideration of his candidature on attaining majority, which was rejected on 28.04.2023 owing to incident occurring 15 years ago, in contravention of compassionate appointment scheme which directs decisions to be made without a time limit and on case's merits). Learned counsel also submits that two daughters have since married, one is handicapped and two declined appointment to allow their brother to be appointed. Learned counsel further submits that owing to such demise, the responsibility of the household fell on the Appellant's grandparents who struggled to financially sustain the family, with the grandfather incurring significant debt for the marriage of the Appellant's three sisters and that the family's sole income source is the pension received post the demise of the employee and they are in an indigent state sans livelihood means. Learned counsel further submits that the learned Single Judge did not consider the case's facts and that a coordinate bench took cognizance in a similar case[2] and issued notice to the Department.

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2 Rahul Kumar S/o Durgaprasad vs The State of Rajasthan S.B. CWP No. 18078/2024, dated 06.12.2024

4. Per contra, the learned counsel for the Respondent submits that the learned Single Judge rightly rejected the writ petition on the ground of the settled law that compassionate appointment cannot be claimed as a right after more than 15 years. Learned counsel, to show the family's financial soundness, submitted the particulars of their income through the pension and gratuity received by them and also the fact that during the demise of the Appellant's father, three sisters of the Appellant did not apply for compassionate appointment despite being eligible (and no assurance of consideration of the Appellant's candidature post attaining age of majority was made as no provision for it exists in the scheme).

5. Learned counsel further submits that the learned Single Judge has rightly factored in the fact of the survival of the family, long post the demise of the Appellant's father and there is no need to make compassionate appointment at the cost of the interests of others and in violation of Article 14 of the Constitution. Learned counsel further states that the learned Single Judge took into account the law settled by the Apex Court, i.e., sympathy with family members of the deceased alone is insufficient to grant such appointment and courts cannot amend a scheme's terms using judicial review.

6. We have considered the submissions.

7. Prior to examining the merits of the case, it would be apposite to quote the relevant part of the Scheme For Compassionate Appointment Under Central Government issued by

the Union Ministry of Personnel, Public Grievances & Pensions (Department of Personnel & Training):

> *"9.* ***TIME LIMIT FOR CONSIDERING APPLICATIONS FOR COMPASSIONATE APPOINTMENT:***
> *Prescribing time limit for considering applications for compassionate appointment has been reviewed vide this Department O.M No.14014/3/2011-Estt.(D) dated 26.07.2012. Subject to availability of a vacancy and instructions on the subject issued by this Department and as amended from time to time, any application for compassionate appointment is to be considered without any time limit and decision taken on merit in each case.*
> *[Para 3 of O.M. No. 14014/3/2011-Estt(D) dated 26.07.2012]*
> *10.* ***BELATED REQUESTS FOR COMPASSIONATE APPOINTMENT***
> *(a) Ministries/Departments can consider requests for compassionate appointment even where the death or retirement on medical grounds of a Government servant took place long back, say five years or so. While considering such belated requests it should, however, be kept in view that the concept of compassionate appointment is largely related to the need for immediate assistance to the family of the Government servant in order to relieve it from economic distress. The very fact that the family has been able to manage somehow all these years should normally be taken as adequate proof that the family had some dependable means of subsistence. Therefore, examination of such cases would call for a great deal of circumspection. The decision to make appointment on compassionate grounds in such cases may, therefore, be taken only at the level of the Secretary of the Department/Ministry concerned.*
> *(b) Whether a request for compassionate appointment is belated or not may be decided with reference to the date of death or retirement on medical ground of a Government servant and not the age of the applicant at the time of consideration.*
> *(c) The onus of examining the penurious condition of the dependent family will rest with the authority making compassionate appointment*
> *[Para 9 of O.M. No.14014/02/2012-Estt. (D) dated 16.01.2013 and Para 4 of O.M No. 14014/3/2011-Estt.(D) dated 26.07.2012]"*

8. We note that one of the central arguments presented by the learned counsel for the Respondent to justify denial of compassionate appointment to the Appellant is that delay in filing for compassionate appointment coupled with the pension and gratuity received by the family is proof of them being financially sound. It is settled law that beneficial legislation like

compassionate appointment schemes must be interpreted strictly but with their objective in mind. Therefore, the phrase ''*manage somehow*'' in sub-paragraph (a) of paragraph 10 of the above mentioned scheme must be construed to mean a dignified existence as per Article 21 of Constitution. From a perusal of the family income of the Appellant vis-à-vis the amount required in the current era for a dignified existence, it is apparent that the same is insufficient for the family to maintain such a dignified existence. In fact, the Apex Court in **Canara Bank vs Ajithkumar G.K.**[3] had summarized the principles of compassionate appointment as under:

> ''***11.*** *Decisions of this Court on the contours of appointment on compassionate ground are legion and it would be apt for us to consider certain well-settled principles, which have crystallized through precedents into a rule of law. They are (not in sequential but contextual order):*
> ……
> *p) Grant of family pension or payment of terminal benefits cannot be treated as substitute for providing employment assistance. Also, it is only in rare cases and that too if provided by the scheme for compassionate appointment and not otherwise, that a dependent who was a minor on the date of death/incapacitation, can be considered for appointment upon attaining majority [see* ***Canara Bank*** *(supra)].*
> ……..''

Furthermore, the mere fact that the family has survived till date cannot invite the assumption that the family did not face indigent circumstances. In this regard a Division Bench of the Madras High Court in **T. Dinakar vs The Principal Secretary to Government, Public Health and Preventive, Medicine Department, Fort St. George, Chennai-600 009 And Others**[4] had held as under:

> ''**4.**……..Therefore, when the application was originally made within the prescribed period of three years and when

3 Civil Appeal No. 255/2025, dated 11.02.2025
4 2017 SCC OnLine Mad 20804

> it was returned for compliance of defects, it cannot be considered that the application was made belatedly. It is to be noted that sudden death of a bread winner of a family, will certainly cause considerable financial crisis to the family unless any one of the members was in earning position and only in order to mitigate the said situation, the scheme of compassionate appointment has been brought in. Mere survival of the family for any number of years does not revive the situation from indigent circumstances. Admittedly, it is not the case of the respondents that any of the members of the deceased family was employed and in substantial position to look after the family. Therefore, depriving the compassionate appointment merely on the ground that the family has been surviving for the years together, in our view, cannot be a reasonable one and sustainable. Moreover, the appellant has also produced indigent certificate issued by the Tahsildar, Kandavakottail Taluk, Pudukottai District. Further, it is to be noted that the appellant was not age barred as on date and there would be no much impediment for the authorities to reconsider the application of the appellant for appointment on compassionate grounds.''

9. With regards to the argument of the learned counsel of the Respondent pertaining to delay in filing for compassionate appointment, the Apex Court in **Govinda Janardan Gaikwad vs State of Maharashtra & Ors.**[5], whilst hearing a similar case, had held as under:

> *''The appellant applied for compassionate appointment within a period of two years from the date on which he attained majority. The application made by the appellant was not considered by the respondent Nos. 3 and 5. Therefore, the appellant approached the High Court by way of a Writ Petition under Article 226 of the Constitution of India.*
> *There are four grounds recorded by the High Court in the paragraph 4 of the impugned judgment for rejecting the Writ Petition filed by the appellant. The said four grounds are as follows:*
> *"i) It is 15 years past the demise of the father;*
> *ii) For 15 years, the family has survived;*
> *iii) The sister of the petitioner has also got married; and*
> *iv) The petitioner has also got married and is working as a labourer."*
> *The fact that the appellant's sister has got married has obviously nothing to do with the grant of compassionate appointment to the appellant. Secondly, the appellant is not having regular employment and is working as a labourer. Thirdly, the appellant could apply only after he attained the age of majority.*
> *It is very unfortunate that the concerned respondents raised a contention before the High Court that as the family of the appellant has survived for 15 years after the death of the appellant's father, he is not entitled to compassionate appointment. In our view, considering the concept of welfare*

5 Civil Appeal No. 7489/2023, dated 06.11.2023

> *State, the respondent Nos. 3 and 5 ought not to have raised such a contention, especially when the appellant is making both ends meet by working as a labourer. Thus, none of the four grounds mentioned above are available to the respondent Nos. 3 and 5.*
> *The learned counsel appearing for the respondent Nos.3 and 5 submitted that initially the appellant's mother applied for compassionate appointment and thereafter, the appellant applied for substitution. On this point, in the paragraph 3 of the impugned judgment, the High Court has decided against the State Government.*
> *It is not pointed out that the appellant was required to apply within a specified time from the date on which he attained majority. In the facts of the case, the appellant applied within a reasonable time from the date of attaining majority.*
> *Hence, we set aside the impugned judgment and order and direct the respondent Nos. 3 and 5 to consider the case of the appellant for grant of compassionate appointment in the light of what we have held in this judgment.*
> *……"*

10. With regards to the argument raised by the learned counsel for the Respondent of other eligible family members not applying, we note that hyper-technical reasons cannot be the ground to deny compassionate appointment, which would otherwise defeat the very objective of such a scheme, more particularly where the indigent condition of the family is apparent and also where the scheme does not mandate the first eligible person in the family to make an application. Also, the word "*or so*" in sub-paragraph (a) of paragraph 10 of the above mentioned scheme is indicative of the intention of the framers of the scheme to hold those whose applications are submitted post 5 years of the death of an employee, to be eligible for compassionate appointment. Regarding the interpretation of such clauses, one of the principles summarized by the Apex Court in **Canara Bank (supra)** was as follows:

> *"e) Since rules relating to compassionate appointment permit a sidedoor entry, the same have to be given strict interpretation [see **Uttaranchal Jal Sansthan v. Laxmi Devi**]."*

Furthermore, in the present case, it is apparent that the Appellant had applied within a reasonable period of attainment of majority and therefore denial of the same on hyper-technical considerations defeats the objective of such scheme.

11. We also notice that the learned counsel for the Appellant has argued that the decisions of the Apex Court in **Fertilizers and Chemicals Travancore Ltd. and Others vs Anusree K.B.[6], Steel Authority of India Limited vs Gouri Devi[7]** and **Central Coalfields Limited THROUGH ITS CHAIRMAN AND MANAGING DIRECTOR And Others vs Parden Oraon[8]** (relied on by the learned Single Judge) are factually different from the present case. The case of **Fertilizers and Chemicals Travancore Ltd. and Others (supra)** is on a different set of facts where at the time of demise of the father, a member of the family, i.e., the widow was already in employment (unlike in the present case).

12. With regards to the decision of the Apex Court in **Central Coalfields Ltd. (supra)**, the relevant portion, as mentioned in the order of the learned Single Judge is quoted as under:

> *''9. The Hon'ble Apex Court in the case of **Central Coalfields Ltd. vs. Parden Oraon: AIR 2021 SC 1876** held as under:*
>
> *"The whole object of granting compassionate appointment is to enable the family to tide over the sudden crisis which arises due to the death of the sole breadwinner. The mere death of an employee in harness does not entitle his family to such source of livelihood. The 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 the job is offered to the eligible member of the family (Umesh Kumar Nagpal v. State of Haryana: (1994) 4 SCC 138). It was further asseverated in the said judgment that **compassionate employment cannot be granted after a lapse of reasonable***

6 2022 SCC OnLine SC 1331
7 (2022) 17 SCC 531
8 (2021) 16 SCC 384

> ***period as the consideration of such employment is not a vested right which can be exercised at any time in the future.*** *It was further held that the object of compassionate appointment is to enable the family to get over the financial crisis that it faces at the time of the death of sole breadwinner,* ***compassionate appointment cannot be claimed or offered after a significant lapse of time and after the crisis is over.***"

From a perusal of the above decision, two caveats on claiming compassionate appointment emerge, i.e., there must be a significant lapse of time and the crisis must have ended. Basis the above discussion, it is evident that there was no undue delay by the Appellant in making an application for compassionate appointment immediately upon becoming eligible for the same and the same was made within a 'reasonable period' and mere existence of other eligible family members, as per the rule of strict interpretation, cannot serve as a disqualification in absence of such a requirement in the scheme. Regarding the second caveat, it is also evident that the financial crisis for the family of the Appellant has not yet ended. The case of **Gouri Devi (supra)** is also on a different set of facts which was a case of unjustifiable delay, which, as discussed above, is not the case here.

13. In view of the above, the present Special Appeal (Writ) is allowed and the order dated 09.09.2024 passed by the learned Single Judge is set aside.

14. The Respondent is directed to consider the appellant for grant of compassionate appointment on a suitable post forthwith.

15. All pending application(s) stand disposed of.

(CHANDRA SHEKHAR SHARMA),J (SANJEEV PRAKASH SHARMA),ACTING CJ

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