

**THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE DR.JUSTICE B.SIVA SANKARA RAO**

WRIT APPEAL NO.83 OF 2006

J U D G E M E N T
(Per Hon'ble Sri Justice Sanjay Kumar)

The unsuccessful petitioners in W.P.No.25655 of 2005 are in appeal. By order dated 27.12.2005, their writ petition was dismissed by a learned Judge.

Challenge in the writ petition was to the proceedings dated 21.08.2004 issued by the State Bank of India, the respondent herein, denying compassionate appointment to the second appellant herein on the ground that the financial position of the family could not be termed to be penurious after the death of the breadwinner. Anthony, the deceased employee, was the husband of the 1st appellant and the father of the 2nd appellant. He was an Armed Guard in the State Bank of India and died in harness on 24.01.2002. The 1st appellant made an application on 30.07.2002 to the bank seeking employment of the 2nd appellant on compassionate grounds. By the impugned letter dated 21.08.2004, this request was turned down. The subject writ petition was filed on 30.11.2005.

By the order under appeal, the learned Judge observed that the scheme of compassionate appointment was bringing in a semblance of succession in public employment and placing reliance on **SHRI UMESH KUMAR NAGPAL V/s. STATE OF HARYANA**^[1], the learned Judge affirmed that such appointments could not be claimed or made, as a matter of course, and only in a case where the family was found to be in penury and without other income, such benefit could be extended to a dependant under a validly constituted scheme. The learned Judge found that as the family of late Anthony was receiving family pension and other

terminal benefits were also provided upon his death, they were not in a state of penury, whereby denial of their request for compassionate appointment warranted interference. The writ petition was accordingly dismissed.

It is relevant to note that though the bank refused the appellants' request for compassionate appointment in August, 2004, it was not subjected to challenge till November, 2005. That apart, more than a decade has elapsed since then. It is well settled that compassionate appointment is not a 'mode of recruitment' as it is only a welfare measure intended to help the family of the employee tide over the sudden crisis befalling it upon his untimely demise. Therefore, once there is long delay and the family of the deceased employee is able to manage for itself, there is no longer a need to take recourse to this extra-constitutional mode of employment to tide over the sudden crisis afflicting the family of the deceased employee.

This being the legal position, we find no reason to interfere with the order under appeal.

The writ appeal is accordingly dismissed. Pending miscellaneous shall also stand dismissed. No order as to costs.

SANJAY KUMAR, J

**DR.B.SIVA SANKARA RAO,
J**

15th JULY, 2016

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[\[1\]](#) (1994) 4 SCC 138