

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

Present:

The Hon'ble Justice Debangsu Basak

and

The Hon'ble Justice Md. Shabbar Rashidi

MAT No. 850 of 2022

GRSE Limited Workmen's Union and Ors.

versus

Garden Reach Shipbuilders and Engineers Limited &Ors.

For the appellants : Mr. Soumya Majumder, Adv.

Mr. Nilay Sengupta, Adv.

Mr. Sujit Banerjee, Adv.

For the respondents : Mr. Jayanta Kumar Mitra, Sr. Adv.

Mr. Ranajay De, Adv.

Mr. B. Banerjee, Adv.

Mr. A.A. Bose, Adv.

Mr. Simanta Kabir, Adv.

Heard on : August 16, 2024

Judgment on : September 04, 2024

Md. Shabbar Rashidi, J.

1. The order dated February 21, 2022 passed in the Writ Petition being WPA 13605 of 2016 has been assailed in the present appeal.
2. While disposing of the Writ Petition by the impugned order, the learned Single Judge held thus:

“In consideration of the fact that the issue is pending before the larger Bench of the Hon’ble Supreme Court this Court at the present moment ought not take any decision on entitlement of the writ petitioners to be considered for compassionate appointment under the policy prevailing at the time of death or the policy which is in vogue at the time of taking decision.

Accordingly, let the writ petition go out of list with liberty to mention after the issue is decided by the larger Bench of the Apex Court.”

3. The appellants/writ petitioner nos. 3 to 51 are the aspirants and were found eligible for appointment on compassionate ground in the fourth phase of recruitment in the respondent company. The appellant no. 1 on behalf of the appellant nos. 3 to 51 and others entered into an agreement with the respondent company on January 11, 1997. On the basis of such agreement, guidelines for

appointment on compassionate ground were framed. The eligibility criteria and process to be followed by the respondent company in training the encumbrance were agreed.

4. In terms of the agreement dated January 11, 1997 the respondent company initially recruited twenty nine persons being the dependants of the deceased employees, as casual workers between 1998 and 2000 who were later absorbed as regular employees.

5. It was further a case of the appellants that several posts went vacant in the respondent company. Nevertheless, on the failure of the respondent company to appoint the heirs and successors of the employees who died in harness, a writ petition being WP 13992 (W) of 1999 was filed on behalf of such aspirants. The said writ petition was disposed of on April 26, 2001 directing the respondent company to consider the case of the writ petitioners therein as and when the company decides to fill up the vacancies. At the same time, respondent company was also directed not to fill up the vacancies without first considering the case of the writ petitioner therein.

- 6.** In the meantime, in 2004,two employees of the respondent company died in a fatal accident and by notice dated March 29, 2004; the respondent company invited the legal dependants of the employees who died in a fatal accident for appointment on compassionate ground.
- 7.** Later, 34 candidates applied for appointment on compassionate ground before the respondent company. However, their applications were rejected on the ground that there was a ban on recruitment, though several persons were appointed during that time in the security department. The respondent company was carrying out recruitment process in different departments but no appointment was made to the post of operatives on the plea of ban on recruitment.
- 8.** Several representations were made by the dependants of the employees who died in harness. In pursuance, a bipartite agreement was entered into between the Union and the respondent company on May 11, 2006 whereby the respondent company assured to appoint fifty dependants of the deceased employees by December 31, 2006 in the second phase. In the said agreement, it was also stipulated that the dependants of the employees who had

died in harness up till March 31, 2006 were to be provided compassionate appointment, subject to the conditions stipulated in the settlement which was to be governed by a comprehensive policy to be formulated by December 31, 2006.

9. In December 2007, the respondent company started fourth phase of recruitment to the post of operatives including those falling under died in harness case. An advertisement was published in the employment news laying down the eligibility criteria with the provisions for relaxation of age.

10. The appellant nos. 3 to 51 are all dependants of employees who died in harness prior to March 31, 2006. They applied for appointment on compassionate ground in response to such advertisement. No policy or guidelines for recruitment in terms of the minutes of the meeting dated May 11, 2006 was formulated by the respondent company. The appellant nos. 3 to 51 applied and appeared in the interview held on October 16, 17 and 18 in the year of 2008. The respondent company also conducted door to door enquiry with regard to their financial penury. However, the recruitment process for the fourth phase was not completed due to alleged intervention of the Central Vigilance Commission after the

said appellants had appeared in the interview conducted by the respondent company.

11. In response to a demand for justice, the respondent company by its notice dated March 09, 2009 declared the fourth phase of recruitment to be kept on pause pending an enquiry order by the Government on the advice of the Central Vigilance Commission. Challenging the notice dated March 09, 2009, the appellant nos. 3 to 51 and others filed writ petition being WP 19565 (W) of 2009 which was disposed of by an order dated December 13, 2011 directing the respondent authorities to start the process of consideration of the case of the petitioners therein for their recruitment subject to eligibility and other requirements and to conclude the entire process in accordance with law within a period of six months. The respondent company filed an application for extension of time in the said writ application.

12. The Central Vigilance Commission preferred an appeal against the order passed in writ petition no. 19565 (W) of 2009 being MAT 1362 of 2012. The said appeal was disposed of with a direction to conclude the process of recruitment within six months.

13. In pursuance of the order passed in MAT 1362 of 2012, by a writing dated March 25, 2013, the Ministry of Defence advised the respondent company to start the recruitment process. In the meantime, following approval of the Board of Directors of the respondent company dated July 12, 2013, the respondent company framed revised employment policy on August 27, 2013. The appellants were informed by writing dated July 07, 2014, August 01, 2014 and August 02, 2014 by the respondent company that the process for scrutiny with regard to eligibility of the applicants in the fourth phase of recruitment was in the progress.

14. Ultimately, the appellants filed a contempt application against the respondent company being CPAN 1963 of 2014 for violation of the order dated March 13, 2013 passed in MAT 1362 of 2012. The affidavit-in-opposition and supplementary affidavit filed in such contempt application disclosed that the case of the appellants and others were considered by the respondents and none of them were found to be eligible. The contempt application was disposed of with liberty to assail the decision of the scrutiny committee. In the report of the scrutiny committee, the grounds for rejection of the case of the appellants were disclosed that the

appellants did not satisfy the basic requirements, reasonable period lapsed and non-submission of documents relating to financial condition as well as on the ground of overage.

15. It was submitted by the appellants that in considering the case of the appellants, the respondent company resorted to a policy which was framed in the year 2013. Since the appellants applied for recruitment in pursuance of an advertisement in the year 2007, their case would have been considered on the basis of the policy prevailing on such date. It was also contended that the non-traceability of record might not have been attributed to the rejection of the case of the appellants. It was specifically stated on behalf of the appellants that the respondent authorities, after due verification of the antecedent, inquiry with regard to the financial penury on door to door inspection allowed the appellants to participate in the interview. They are now stopped from rejecting the case of the appellants on such grounds. Similarly, the appellants contended that the age of appellant nos. 3 to 51, were considered by the authorities and they were allowed to participate in the recruitment process. No ground of overage was canvassed by the respondent company in the earlier round of litigations

where appropriate directions were issued against the respondent with regard to the relaxation of age criteria for compassionate appointment. The respondent company cannot be allowed to turn around at this stage to reject the candidature of the appellants on the grounds of overage.

16. It was alleged that the respondent company, in terms of bipartite agreement dated January 11, 1997, agreed to the recruitment of persons belonging to the died in harness category. The modalities like eligibility criterion, age, educational qualification were mutually agreed to between the appellant union and the respondent company which was to govern such recruitment.

17. On the failure of the respondent company, the aspirants approached the court by Writ Petition being WP No. 13992 (W) of 1999. The High Court in its order dated April 26, 2001 took note of the terms and conditions of the agreement vide minutes of the meeting dated January 11, 1997. The said writ application was although dismissed, but the respondent company was directed to consider the case of the writ petitioners as and when vacancy arises and ban on recruitment is lifted by the board of directors.

18. There was another bipartite agreement vide minutes of the meeting dated March 24, 2006. In the said meeting the respondent company agreed to provide appointment on compassionate grounds to the petitioners in WP No. 13992 (W) of 1999 in the first phase to be completed within June 30, 2006. It was also agreed that the dependants of the deceased employees who had died in harness up to March 31, 2006 will be provided employment in phase the manner to be completed by January 30, 2008. Such minutes of the meeting also disclose that the parties agreed to various conditions like dependant's financial conditions, educational qualifications and eligibility criteria etc. to be considered for such appointment.

19. It was further contended on behalf of the appellants that in terms of the minutes of the meeting dated March 24, 2006, a panel of 279 candidates was frozen. Three phases of recruitment were carried out by the respondent company. In the fourth phase of the recruitment the writ petitioners applied and appeared for written test as well as interview. Out of the aforesaid 279 candidates, 170 have already been appointed in the fast three phases of recruitment.

20. Thereafter, the recruitment process was stopped allegedly due to the intervention of Central Vigilance Commission. The writ petitioners/appellants filed a writ application being W. P. No. 19565 (W) of 2009 seeking a direction upon the respondent to complete the process of fourth phase of recruitment. In its judgment and order dated December 13 , 2011 the High Court directed the authorities to start the process of consideration of the case of the writ petitioners for the recruitment, subject to eligibility and other requirements being fulfilled by them. It was further directed that a senior official of the central vigilance commission would oversee the selection.

21. In pursuance of the judgment in the writ petition, financial status of the families of the appellants, were enquired into in the year 2010. However, in an appeal against the judgment dated December 13, 2011 at the behest of Central vigilance commission, the Central vigilance commission was divested of its responsibilities towards supervision of daily process of recruitment.

22. It was the contention of the writ petitioners/appellants that the appellants applied for appointment on compassionate ground

in terms of the bipartite agreements between the union and the management of the respondent company held in 1997 and 2004. The applications were invited on the basis of the eligibility criterion agreed in the said meetings. Their candidature cannot be judged and rejected on the parameters of the recruitment policy framed in 2013, though; there is no material change in the parameters.

23. In such context, learned advocate for the appellants relied upon an order dated August 1, 2016 passed in W.P. 13605 (W) of 2016. On such proposition itself, reliance has been placed on the case reported in **(2020) 2 Supreme Court Cases 729 (Indian Bank and Others vs. Promila and Others)**, **(2020) 10 Supreme Court Cases 496 (State of Madhya Pradesh vs. Amit Shrivastava)**, **(2022) 2 Supreme Court Cases 157 (State of Madhya Pradesh vs. Ashish Awasthi)**, **(1981) 1 Supreme Court Cases 315 (Life Insurance Corporation of India vs. D.J. Bahadur and Others)**, **(2020) 7 Supreme Court Cases 615 (N.C. Santosh vs. State of Karnataka)**, **(1979) 3 Supreme Court Cases 489 (Ramana Dayaram Shetty vs. International Airport Authority of India and Others)** and **(2007) 12 Supreme Court Cases 768 (Oriental Insurance Co. Ltd. Vs. Raj Kumari and Others)**.

24. It was also the contention of the appellants that the respondent authorities agreed to provide appointment to them on compassionate ground, in phased manner. The respondent company has already made recruitments in three phases, on the parameters of the bipartite agreements absorbing 170 out of 279 candidates, as on March, 2006, enlisted for compassionate appointment. The respondent company was directed time and again for appointing appellant nos.3 to 51 by different pronouncements of this court. In such circumstances, the respondent cannot be allowed to turn around to deny the claim of the appellants.

25. Learned advocate for the respondent company, admitted that a panel of 279 candidates in the 'died in harness' category for appointment was finalized as on March 31, 2006. However, it was submitted, that owing to formulation of compassionate appointment policy on August 27, 2013 only 5% of the available vacancies at a given point of time, could be allotted to appointment on compassionate grounds.

26. It was also contended by learned advocate for the respondent that gross discrepancies were discovered in the

compassionate appointment in the first three phases like non existence of Recruitment Rules, unauthorized post of casual labour, non-mentioning of age requirement in the advertisement, difference in qualification criterion for fresh candidates and those falling under died in harness category, so on and so forth.

27. Learned advocate for the respondent also submitted that there was inordinate delay on the part of the appellant in approaching the authorities for their appointment on compassionate ground. Furthermore, their candidature was also assessed on the ground of financial incapacity and on such ground as well, the appellants were found not suitable for the appointment. It was contended that after the completion of third phase of appointment, the management has not recruited anyone in the unskilled category. There was a ban on the recruitment which was temporarily lifted and again imposed with effect from November 17, 2015.

28. Learned advocated for the respondent further submitted that the policies formulated in the minutes of the meeting held on January 11, 1997 was valid for 5 years only, and it automatically lost its relevance on the expiry of such period. It can also not be

considered as a settlement under the Industrial Disputes Act, 1947 and as such, it cannot be construed as a policy of the respondent company for appointment on compassionate ground.

29. Learned advocate for the respondent company also submitted that in terms of the minutes of the meeting dated May 11, 2006, the company was to freeze a panel of candidates in 'died in harness' category, in consultation with the Union, asigned copy of which was to be supplied to the Union. Since such panel of 279 candidates, supplied to the Union, is not duly authenticated, it is not binding. The candidates in first three phases of recruitment were appointed purely on humanitarian grounds sans any policy of compassionate appointment. Learned advocate for the respondent company relied upon **(1969) 3 Supreme Court Cases 302 (Workmen of Delhi Cloth and General Mills Limited vs. Management of Delhi Cloth and General Mills Limited)**.

30. The writ petitioners/appellants are admittedly within the enlisted candidates frozen as on May 11, 2006 and are the dependants of the employees of the respondent company who died in harness. It is also not in dispute that in terms of the minutes of the meeting held on January 11, 1997 as well as on May 11, 2006,

it was agreed that the dependants of the employees who died in harness, enlisted in the frozen list would be provided appointment on compassionate ground in phased manner. It is also not in dispute that the respondent company carried out the appointments in first three phases and out of 279 candidates in the list frozen on May 11, 2006, 170 candidates were provided with appointments.

31. The minutes of the meeting dated January 11, 1997 stipulated the age, educational qualification and financial condition required for appointment of the dependants of the employees died in harness on compassionate grounds. It is infact thatsuch minutes of the meeting provided that the terms of the agreement would remain operative for five years from the date of signing. However, another meeting was held between the parties on May 11, 2006 reiterating the terms of the agreement dated January 11, 1997.

32. It is in this meeting dated May11, 2006 itself, the management of the respondent company reiterated and agreed to provide compassionate appointment to the dependants of the employees died in harness in phased manner. In such meeting, list

of 279 dependants of the employees died in harness, was finalized taking March 31, 2006 as the cutoff date. Such meeting provided for appointment on compassionate ground of the writ petitioners in WP 13992(W) of 1999 in the first phase. It also provided the specific time for conclusion of different phases of recruitment, the last phase of which was agreed to be completed by June 30, 2008. It also provided for initiation of the process of recruitment by issuing press notification. Not only that, the meeting also sought for withdrawal of a writ petition filed against the management being WP 24504 (W) of 2005 as a condition precedent for consideration of the petitioners thereof, for their appointment on compassionate ground.

33. Paragraph 5 of the said minutes of the meeting dated May 11, 2006 specifically laid down the agreed conditions and eligibility criterion for the compassionate appointment in details. The said minutes distinctively provided that fresh cases arising in the 'died in harness' category after March 31, 2006 will be governed by the comprehensive policy on compassionate employment which was contemplated to be formulated by the company at the earliest. Such conditions laid down in the minutes, arrived at by

consensus in the meeting between Union and the management, sufficiently indicates that the new policy of recruitment, which came to be formulated on August 27, 2013, was to govern the fresh cases arising after the frozen list of March 31, 2006. Moreover, unlike the minutes of the meeting dated January 11, 1997, the minutes dated May 11, 2006, did not limit its application to 5 years or any specific life period of applicability.

34. It is also admitted position that process of recruitment for the fourth phase was also initiated with the publication of advertisement in this regard in the year 2007. The candidates were asked to appear in the written test as well as interview in October, 2008, which the applicants did. They appeared in such test and interview and passed all the examination. In the year 2010, the appellants were called upon to submit documents including information on their financial status.

35. All on a sudden, the management stopped the process of recruitment on the plea of alleged enquiry by Central Vigilance Commission. This led to a judgment and order dated December 13, 2011 in WP 19565 (W) 2009 to the following effect, that is to say:

“24. Under these circumstances, it is thus evident that the consideration of the Petitioners should not be kept in limbo ad infinitum. It is high time that the procedure resorted to for their recruitment through Advertisement sees a logical conclusion. Therefore, this court is not in a position to go on giving time after time to the concerned Officials to frame Rules. Under the circumstances, this Court directs the Authorities to start the process of consideration of the case of the Petitioners for their recruitment subject to eligibility and other requirements being fulfilled by them. However, in view of the allegations made by the Central Vigilance Commission to the effect that they had received complaints regarding irregularities, this Court directs that when the cases of the Petitioners are being considered and on each such occasion, a Senior Officer of the Central Vigilance Commission must be present to oversee each and every case individually. Thereafter and subject to the satisfaction recorded in writing by both the Officers of GRSE as well by such a Senior Officer of the Central Vigilance Commission, the Respondent authority shall conclude the matter in accordance with law and within a period of six months from the date of receipt of a copy of this Order.”

36. The Central Vigilance Commission carried an appeal against such order and judgment being MAT 1362 of 2012 which was dismissed in terms of an order dated March 13, 2013. In the said appeal, the division bench noted that,

“the learned advocate appearing on behalf of the Garden Reach & Shipbuilders Engineers Ltd who are the respondent nos. 154 to 158 submits that his clients are going to complete the process of consideration within a period of six months from date.

The learned advocates appearing for the appellant as well as the learned advocate appearing for the right petitioners/respondents nos. 1 to 153 have agreed to the submissions made on behalf of the respondent nos. 154 to 158.

Accordingly, in view of the aforesaid consensus arrived at by the learned advocate appearing for the parties, we direct the respondent was nos. 154 to 158 to complete the process of consideration of the case of the right petitioners with regard to their recruitment in accordance with law within a period of six months from date.

We record that it is also at least by the learned advocates appearing for the parties that as far as possible and officer of the central vigilance commission will remain present at the process of consideration as aforesaid, in the event, the officer of the Central vigilance commission fails to remain present, the authorities will be at liberty to make periodical review of all the process of consideration and shall pass appropriate orders.

With the aforesaid directions, the appeal stands disposed of.”

37. Thereafter, the committee considered the case of the writ petitioners on the touchstone of the scheme of appointment on compassionate ground dated August 27, 2013 and found all the appellants to be ineligible for appointment on compassionate grounds. Such report of the committee was placed and discussed in 319th meeting of the Board of Directors dated January 14, 2015. Although, in the heading, the meeting is set to have taken place on July 31, 2014 at 14:30 hours but one of the signatories namely A. R. Pal signed the minutes on January 14, 2015.

38. In the aforesaid meeting, as noted above, the candidature of the appellants were considered on the touchstone of the scheme

of appointment on compassionate ground dated August 27, 2013. The details of the relevant register containing/not containing the names of the aspirants for appointment on compassionate grounds, calling upon them to submit Penury certificate, the details of the persons who responded to such a request were discussed by the committee. However, there appears nothing in the minutes of the meeting as to the details of the grounds on which the candidature of the appellants was rejected and they were not found eligible for appointment on compassionate ground.

“As noted above, the respondent company resorted to the scheme of appointment on compassionate ground dated August 27, 2013 to reject the candidature of appellant nos. 3 to 51 and no reason has been specifically assigned for such rejection. The respondents were directed by different pronouncement by this Court to consider the claim of the appellants within a time frame. Not only that, the respondents themselves agreed to fill up the vacancies on compassionate ground, in phased manner in terms of minutes of the meeting in 2006 as well as their own undertaking given in MAT 1362 of 2012. Whether the respondents could have done so? Such aspect was decided by this Court in the order passed on August 1, 2016, which states:

Since the respondents have rejected the claims of the petitioners 3 to 51 based on a policy decision, which saw the light of the day much after the decision dated March 13, 2013 of an Hon'ble Division Bench of this Court requiring the respondents to consider the petitioners' claim in accordance with law, and prima facie this Bench is satisfied that the policy that saw the light of the day on August 27, 2013 could not have been applied against the petitioners 3 to 51, there shall be an interim order restraining the respondents from filling up 49 posts of Unskilled Operative (Casual Labourer) i.e. the posts for which the petitioners had offered their candidatures, at page-65 of the writ petition, till November 30, 2016 or until further orders, whichever is earlier."

39. In the case of **Promila (Supra)** the Supreme Court while declining to extend the benefit of subsequent Rule, noted that, the respondents cannot claim benefit, it is only the relevant Scheme prevalent on the date of demise of the employee, which could have been considered to be applicable.

40. In **Amit Shrivastava (Supra)** certain relief was granted to the appellant under Article 142 of the Constitution though, the

Supreme Court held a circular dated March 21, 2017, not coming to the aid of the appellants therein.

41. In **Ashish Awasthi (Supra)**, the Hon'ble Supreme Court observed that,

“5. As per the settled proposition of law laid down by this Court for appointment on compassionate ground, the policy prevalent at the time of death of the deceased employee only is required to be considered and not the subsequent policy.”

42. In **N.C Santosh (Supra)** also, the Supreme Court observed that,

“19. Applying the law governing compassionate appointment culled out from the above cited judgments, our opinion on the point at issue is that the norms, prevailing on the date of consideration of the application, should be the basis for consideration of claim for compassionate appointment. A dependant of a government employee, in the absence of any vested right accruing on the death of the government employee, can only demand consideration of his/her application. He is, however, disentitled to seek consideration in accordance with the norms as

applicable, on the day of death of the government employee.”

43. In the instant case, the settlement of 2006 between the parties was sought to be superseded by a policy of 2013. In view of the ratio laid down in the aforesaid case, the settlement of 2006 cannot be said to be not applicable or not binding.

44. Ramana Dayaram Shetty (Supra) was rendered in the context of acceptance of tender where certain tender was accepted without fulfillment of the conditions in the notice inviting tender denying the rights of others who did not submit tender on such non-fulfillment. The facts of the aforesaid case are altogether different not obtaining with that of the present case.

45. In the case of **Raj Kumari (Supra)** wherein a case for accident claim, the Supreme Court fixed the rate of compensation in consideration of the date of accident. The ratio in such case is not applicable in the facts of the present case.

46. The case of **D.J. Bahadur (Supra)** was rendered in the context of Industrial Disputes Act and has no much relevance in the facts of the case at hand. It noted that,

“79. Learned counsel for the Corporation and the Union of India submit that the law declared by this

Court in respect of an award does not hold true in the case of a settlement. I am unable to agree. Not only are the statutory provisions pertaining to a settlement and an award comparable in this regard but, if anything, the observations if read in respect of a settlement, which after all is a voluntary agreement between the parties, would seem to hold more strongly.”

47. The case of **Workmen Delhi Cloth & General Mills Limited (Supra)** was relied on by the respondent to contend that the minutes of the meetings January 11, 1997, and May 11, 2006 were not a valid settlement in terms of the Industrial Disputes Act, 1947 and as such it was not binding. The respondent company was well within legal parameters to consider the case of the appellants on the basis of yardstick incorporated in the scheme of compassionate appointment dated August 27, 2013 formulated in accordance with law.

48. We are hesitant to accept such contention of the respondent company. Admittedly, there was no scheme for compassionate appointment at the relevant point of time i.e. 1997 or 2006. Nevertheless, the respondents agreed to provide such employment to the kith and kin of the employees who died in harness. Agreeing

so, they also formulated the yardstick with special reference to eligibility, educational qualification, age relaxation etc. They also assumed the responsibility to provide such employment in phases fixing dates for conclusion of the process in each phase. The list of the persons to be considered for such employment was also finalized and frozen. Time and again, the respondents were directed by this court in several Writ Petitions to do their part in terms of the aforesaid settlement. The appellants herein admittedly figured in such list. The respondents never raised the issue of inapplicability of the settlement in a series of litigations between the parties. In fact, they undertook to give effect to such settlement, particularly in MAT 1362 of 2012.

49. On such parameters, advertisements were published and applications were invited. The respondents acted in terms of such settlement up to the third phase of appointment and the selected candidates were inducted in service. Even for the fourth phase, advertisements were issued far back in October, 2007. Written test and interview on the basis of such advertisement were conducted in October 2008. The appellants appeared in such test successfully. The financial penury report was called upon in 2010.

50. At this stage, in view of their actions in pursuance of the settlement and their undertaking in MAT 1362 of 2012 to complete the process within six months, the respondents cannot be allowed to turn around to deny the applicability of the settlements and to reject the candidature of the appellants on standards set forth in the Scheme for compassionate appointment formulated in 2013.

51. The learned Single Judge, by the impugned order, owing to the fact that the issue being pending before the larger Bench of the Hon'ble Supreme Court deferred any decision on entitlement of the writ petitioners, to be considered for compassionate appointment under the policy prevailing at the time of death or the policy which is in vogue at the time of taking decision.

52. In the case at hand, the germane issue is whether the settlement dated January 11, 1997, and May 11, 2006 is or is not a valid policy for appointment on compassionate grounds. The applicability of specific scheme of compassionate appointment dated August 27, 2013 has also been sought to be brought into issue. However, as noted hereinbefore, the respondents have acted on the basis of settlement of 2006 to a great extent. They also gave unconditional undertaking in a judicial proceeding i.e. MAT 1362

of 2012, to give effect to such settlement and provide appointment to the appellants within a period of six months. We have also noted that in view of such actions and undertaking on the part of the respondents, they are now estopped from denying the applicability of the settlements.

53. In view of the discussions made hereinabove, we set aside the impugned order. The respondents are hereby directed to give appointment to the appellant nos. 3 to 51 on compassionate ground, in accordance with law.

54. Consequently, the instant appeal being MAT 850 of 2022 together with WPA 13605 of 2016 are disposed of accordingly without any order as to costs.

55. Urgent photostat certified copy of this order, if applied for, be supplied to the parties on priority basis upon compliance of all formalities.

[MD. SHABBAR RASHIDI, J.]

56. I agree.

[DEBANGSU BASAK, J.]