



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 2661 OF 2024

1. Ashwini Parag Pande,
Aged 47 years, Occ. Household,
R/o. Ujwal Nagar, Nagpur.
2. The Bombay High Court Ministerial Staff Association,
Nagpur, through its Secretary, Mr. V. M. Jais,
Aged about 43 years, Occ. Service,
R/o Juni Shukrawari, Nagpur.

..... **PETITIONERS**

...VERSUS...

The Registrar (Administration)
Nagpur Bench, Bombay High Court,
Nagpur, Civil Lines, Nagpur.

.....

RESPONDENT

Shri A. J. Gilda, Advocate for petitioners.
Dr. (Mrs.) Renuka S. Sirpurkar, Advocate for respondent.

CORAM :- NITIN W. SAMBRE AND MRS. VRUSHALI V. JOSHI, JJ.

DATE : 23rd OCTOBER 2024

JUDGMENT (Per NITIN W. SAMBRE, J.)

Rule. Rule made returnable forthwith. Heard finally by consent of the parties.

2. The petitioner no. 1 wife of incapacitated employee of respondent is seeking employment on compassionate basis in place of her husband. The prayers' made in this petition are twofold. *Firstly*, to quash and set aside the

impugned communication dated 29.01.2024, whereby the respondent has rejected the application of the petitioner no. 1 for grant of compassionate appointment. *Secondly*, to declare that the Bombay High Court Revised Guidelines for Appointment on Compassionate Grounds, 2019 policy are discriminatory and arbitrary.

3. The facts necessary for deciding the present petition are as under:

(i) The husband of the petitioner no. 1, Mr. Parag Pande (hereinafter shall be referred to as “the employee” for the sake of brevity) was appointed and posted as clerk at the Nagpur Bench of the Bombay High Court on 01.11.2004. He was subsequently promoted as an Assistant Section Officer on 06.07.2021.

(ii) The employee was diagnosed with brain tumor and has undergone three surgeries for the same. The last surgery took place on 06.07.2022, however, after the surgery he unfortunately suffered brain haemorrhage and is in a semi unconscious state till date.

(iii) Due to the unfortunate condition of the employee, petitioner no. 1 made two representations to the Hon’ble the Chief Justice of the Bombay High Court dated 19.12.2022 and 17.08.2023 requesting for grant of appointment on compassionate basis.

(iv) The respondent *vide* impugned communication dated 29.01.2024 informed the petitioner no. 1 that her request for grant of appointment on compassionate basis has been closed in view of the Bombay High Court Revised Guidelines for appointment on Compassionate Ground, 2019 (for short, “Revised Guidelines 2019”). Hence, the present petition.

4. Mr. Gilda, the learned counsel for the petitioner, would submit that the respondent has failed to consider the very object and purpose with which

the scheme for compassionate appointment has been enacted and implemented viz. to meet the sudden financial crisis faced by the family. The husband of the petitioner no.1 was the sole bread earner and his family consisting of four members are entirely dependent on him. The medical invalidation of the sole breadwinner has left the family without any means. Leave apart, major medical expenses, the petitioner no.1 and family members are even unable to meet the day-to-day expenses incurred in the maintenance of the employee. He would further urge that refusing compassionate appointment in the case of medical invalidation amounts to discrimination as the case of dependent family member of the employee who dies in harness stands on the same footing as to the dependent family member of employee who has been permanently incapacitated due to serious illness or is bedridden. He would submit that strict or hyper-technical view of the policy would defeat its object and the same should be given a reasonable and practical interpretation. The learned counsel for the petitioner so as to substantiate his contentions would invite the attention of this Court to the judgments of the Apex Court in the cases of *V. Sivamurthy v/s. State of Andhra Pradesh and Others*, reported in **[(2008)13 SCC 730]** and *Balbir Kaur and Another v/s. Steel Authority of India Ltd. and Others*, reported in **[(2000) 6 SCC 493]**.

5. While countering the said submissions, Mrs. Sirpurkar, the learned counsel for the respondent, would submit that in absence of provision in the Revised Guidelines 2019 for granting compassionate employment to a family member of an employee who has been permanently incapacitated on account of serious illness the order impugned is justified. Clause no. 3 of the said guidelines states that the scheme shall apply to a dependent family member of an employee of Department, who dies while in service and the scheme of compassionate appointment being an exception to the general rule the provisions therein have to be strictly construed. She would further claim that an embargo is also created by virtue of Clause 8(B) of the aforesaid guidelines as the appointment on compassionate ground can only be made by the candidates up to the age of 45 years. The petitioner no. 1 wife of the employee has mentioned her date of birth as 06.03.1977 in the representation dated 19.12.2022 rendering her age barred. She would also urge that claim for compassionate appointment cannot be urged as of right. Therefore, she prayed for dismissal of the writ petition.

6. We have heard the rival submissions of the learned counsel appearing for the parties.

7. It is not in dispute that the employee was recruited on 01.11.2004 and at present is in service on the post of 'Assistant Section Officer' on the establishment of Bombay High Court, Nagpur bench since 06.07.2021. It is

also not in dispute that he suffered complications post-surgery which he had undergone for brain tumor and is in a semi unconscious state since 06.07.2022.

8. The scheme of compassionate appointment is an exception to the general rule of public appointment through open selection in conformity with Articles 14 and 16. The object of the scheme is to enable the family to get over the sudden financial crisis and to grant relief to the family against financial destitution. It is not a vested right. It is a benevolent and beneficial measure which fulfils the mandate of the Fundamental Rights as well as the Directive Principles of State Policy enunciated in the Constitution.

9. The fact remains that the employee is bedridden and in a semi-unconscious state as well as he has been permanently incapacitated due to recurrent Meningioma as certified by Dr. Sandeep Iratwar, Neuro Surgeon who is responsible for the treatment of Mr. Parag Pande.

10. In the aforesaid background, the learned counsel for the petitioner, in our opinion, is justified in drawing support from the observations of the Apex Court in the case of *V Sivamurthy* (supra), particularly paragraphs 24 to 29, which are reproduced as under:

“24. The decisions make it clear that exceptions to the rule may relate to several contingencies, one of which is the employee dying-in-harness. There can be exceptions in other extreme cases of sudden deprivation of means of livelihood. If the intention was

to restrict compassionate appointments only to cases of death-in-harness, these two decisions would have obviously used the words “exception” and “contingency” instead of “exceptions” and “contingencies”. Further in Yogender Pal Singh[(1987) 1 SCC 631 : (1987) 3 ATC 28] , this Court made it clear that while appointment only on the criterion of descent would be unconstitutional, appointment of a dependent is permissible both when the government servant dies in service or is incapacitated while rendering service.

25. We may also notice that this Court dealt with provisions relating to compassionate appointments on medical invalidation in several cases, but did not hold that such appointments were violative of Article 16. Reference may be made to W. B. SEB v Samir K. Sarkar[(1999) 7 SCC 672 : 1999 SCC (L&S) 1370] and Food Corporation of India v. Ram Kesh Yadav[(2007) 9 SCC 531 : (2007) 2 SCC (L&S) 559] . Be that as it may. The assumption by the High Court, that this Court had held that compassionate appointments can be only in death-in-harness cases and not in retirement on medical invalidation cases, is not sound.

26. As an incidental reason for holding that compassionate appointments are not permissible in cases of medical invalidation, the High Court has observed that death stands on a “higher footing” when compared to sickness. The inference is compassionate appointment in case of medical invalidation cannot be equated with death-in-harness cases, as medical invalidation is not of the same degree of importance or gravity as that of death; and that as medical invalidation is not as serious as death-in-harness, exception can be made only in cases of employees dying-in-harness. But what is lost sight of is the fact that when an employee is totally incapacitated (as for example when he is permanently bedridden due to paralysis or becoming a paraplegic due to an accident or becoming blind) and the services of such an employee is terminated on the ground of medical invalidation, it is not a case of mere sickness. In such cases, the consequences for his family may be much more serious than the consequences of an employee dying-in-harness.

27. When an employee dies in harness, his family is thrown into

penury and sudden distress on account of stoppage of income. But where a person is permanently incapacitated due to serious illness or accident, and his services are consequently terminated, the family is thrown into greater financial hardship, because not only the income stops, but at the same time there is considerable additional expenditure by way of medical treatment as also the need for an attendant to constantly look after him. Therefore, the consequences in case of an employee being medically invalidated on account of a serious illness/accident, will be no less, in fact far more than the consequences of death-in-harness. Though generally death stands on a higher footing than sickness, it cannot be gainsaid that the misery and hardship can be more in cases of medical invalidation involving total blindness, paraplegia, serious incapacitating illness, etc.

28. Another observation made by the High Court in support of its conclusion is that “while considering the cases of sick employees, the court cannot lose sight of cases of sick unemployed”. What the High Court apparently means is that if an exception is made for compassionate appointment in the case of an employee medically invalidated, it may amount to hostile discrimination, as compassionate appointment is not extended in case of others who are equally sick but are not employees of the Government. But the same logic is applicable to death-in-harness cases also. It can equally be said that “while considering the cases of death of employees in service, the court cannot lose sight of cases of death of other unemployed poor”. Members of the family of a deceased are thrown into penury and hardship not only where the deceased is a government servant, but also where they belong to weaker or poorer sections of the society. In fact in the case of death of government servants, there is at least family pension and terminal benefits. But in the case of death of anyone belonging to poorer and weaker sections, there is nothing at all to support their families. Should compassionate appointments be therefore stopped even in death-in-harness cases also? The issue is complex. Comparison with non-employed is neither logical nor sound.

29. When compassionate appointment of a dependent of a government servant who dies in harness is accepted to be an

exception to the general rule, there is no reason or justification to hold that an offer of compassionate appointment to the dependent of a government servant who is medically invalidated, is not an exception to the general rule. In fact, refusing compassionate appointment in the case of medical invalidation while granting compassionate appointment in the case of death-in-harness, may itself amount to hostile discrimination. While being conscious that too many exceptions may dilute the efficacy of Article 16 and make it unworkable, we are of the considered view that the case of dependents of medically invalidated employees stands on an equal footing to that of dependents of employees who die in harness for the purpose of making an exception to the rule. For the very reasons for which compassionate appointments to a dependent of a government servant who dies in harness are held to be valid and permissible, compassionate appointments to a dependent of a medically invalidated government servant have to be held to be valid and permissible.”

11. Further reliance is placed by the learned counsel for the petitioner on the decision rendered by the Apex Court in the case of *Balbir Kaur* (supra), particularly on paragraph 19 which reads as under:

“19. Mr Bhasme further contended that family members of a large number of the employees have already availed of the Family Benefit Scheme and as such it would be taken to be otherwise more beneficial to the employee concerned. We are not called upon to assess the situation but the fact remains that having due regard to the constitutional philosophy to decry a compassionate employment opportunity would neither be fair nor reasonable. The concept of social justice is the yardstick to the justice administration system or the legal justice and as Roscoe Pound pointed out the greatest virtue of law is in its adaptability and flexibility and thus it would be otherwise an obligation for the law courts also to apply the law depending upon the situation since the law is made for the society and whatever is beneficial for the society, the endeavour of the law court would be to administer

justice having due regard in that direction.”

12. So as to safeguard the object behind the compassionate appointment which is to support the family of an employee facing unforeseen circumstances out of their control, it is necessary to give a purposive construction to Clause 3 of the Revised Guidelines 2019 so as to include employees who are alive but in a persistent vegetative state with little to no chance of recovery. If a hyper-technical view or restricted interpretation is given to the Revised Guidelines 2019 then it would defeat the very object and purpose of the scheme. The doctrine of purposive interpretation has been exhaustively dealt with in the case of *Vivek Narayan Sharma and Others v/s. Union of India and Others*, reported in [(2023) 3 SCC 1], from paragraphs 133 to 148, specifically paragraph 148 is relevant which is quoted as under:

“148. It is thus clear that it is a settled principle that the modern approach of interpretation is a pragmatic one, and not pedantic. An interpretation which advances the purpose of the Act and which ensures its smooth and harmonious working must be chosen and the other which leads to absurdity, or confusion, or friction, or contradiction and conflict between its various provisions, or undermines, or tends to defeat or destroy the basic scheme and purpose of the enactment must be eschewed. The primary and foremost task of the Court in interpreting a statute is to gather the intention of the legislature, actual or imputed. Having ascertained the intention, it is the duty of the Court to strive to so interpret the statute as to promote or advance the object and purpose of the enactment. For this purpose, where necessary, the Court may even depart from the rule that plain words should be interpreted

according to their plain meaning. There need be no meek and mute submission to the plainness of the language. To avoid patent injustice, anomaly or absurdity or to avoid invalidation of a law, the court would be justified in departing from the so-called golden rule of construction so as to give effect to the object and purpose of the enactment. Ascertainment of legislative intent is the basic rule of statutory construction.”

Even in the case of *Badshah v/s. Urmila Badshah Godse and Another*, reported in *[(2014) 1 SCC 188]*, the Apex Court has held that the Court must bridge the gap between law and society through the use of purposive interpretation wherever applicable.

While holding so, the Apex Court has made the following observations in paragraphs 13.3, 14 and 16:

“13.3 Thirdly, in such cases, purposive interpretation needs to be given to the provisions of Section 125, Cr.PC. While dealing with the application of destitute wife or hapless children or parents under this provision, the Court is dealing with the marginalized sections of the society. The purpose is to achieve “social justice” which is the Constitutional vision, enshrined in the Preamble of the Constitution of India. Preamble to the Constitution of India clearly signals that we have chosen the democratic path under rule of law to achieve the goal of securing for all its citizens, justice, liberty, equality and fraternity. It specifically highlights achieving their social justice. Therefore, it becomes the bounden duty of the Courts to advance the cause of the social justice. While giving interpretation to a particular provision, the Court is supposed to bridge the gap between the law and society.

14. Of late, in this very direction, it is emphasized that the Courts have to adopt different approaches in “social justice adjudication”, which is also known as “social context adjudication” as mere “adversarial approach” may not be very appropriate. There are number of social justice legislations giving special protection and

benefits to vulnerable groups in the society. Prof. Madhava Menon describes it eloquently:

“It is, therefore, respectfully submitted that “social context judging” is essentially the application of equality jurisprudence as evolved by Parliament and the Supreme Court in myriad situations presented before courts where unequal parties are pitted in adversarial proceedings and where courts are called upon to dispense equal justice. Apart from the social-economic inequalities accentuating the disabilities of the poor in an unequal fight, the adversarial process itself operates to the disadvantage of the weaker party. In such a situation, the judge has to be not only sensitive to the inequalities of parties involved but also positively inclined to the weaker party if the imbalance were not to result in miscarriage of justice. This result is achieved by what we call social context judging or social justice adjudication.”

16. The law regulates relationships between people. It prescribes patterns of behavior. It reflects the values of society. The role of the Court is to understand the purpose of law in society and to help the law achieve its purpose. But the law of a society is a living organism. It is based on a given factual and social reality that is constantly changing. Sometimes change in law precedes societal change and is even intended to stimulate it. In most cases, however, a change in law is the result of a change in social reality. Indeed, when social reality changes, the law must change too. Just as change in social reality is the law of life, responsiveness to change in social reality is the life of the law. It can be said that the history of law is the history of adapting the law to society’s changing needs. In both constitutional and statutory interpretation, the Court is supposed to exercise direction in determining the proper relationship between the subjective and objective purposes of the law.”

13. In the backdrop of the aforesaid law laid down by the Apex Court, if we consider the very object with which the Revised Guidelines 2019 are enacted, it can be seen that Clause 3 thereof makes the said scheme for

appointment on compassionate ground applicable to the dependents / family members of an employee of the Department who dies while in service.

14. The claim in the petition if we appreciate in the backdrop of Clause 3, it is apparent that the employee who was appointed pursuant to the powers conferred in the Hon'ble the Chief Justice of the Bombay High Court or a nominee Judge to make appointments, the disabled employee i.e. the husband of the petitioner no.1 is though surviving but can be said to be paraplegic.

15. The health condition of the employee i.e. the husband of the petitioner no.1 namely Parag Pande can be inferred from the CT Brain Report dated 02.09.2024 and the certification of Neuro Surgeon dated 19.10.2024. The certificate dated 19.10.2024 issued by the Neuro Surgeon, in our opinion, is worth referring to, which reads thus:

“Mr. Parag Pande was admitted at the Bombay Hospital, Mumbai, on 4th July 2022 for a recurrent Meningioma (Brain Tumor). In spite of two earlier surgeries, the tumor had grown considerably over the last 1 year and he was therefore taken up for surgery on 6th July, 2022 at Bombay Hospital, Mumbai.

Though the surgery went off well with complete tumor removal, he had a difficult post operative period due to development of a blood clot and has still not recovered fully.

After that he was admitted at the Nelson Hospital, Nagpur, on 04/10/2022 to 01/11/2022 under the care of Dr. Sandeep Iratwar. There has been a sever delay in recovery of his neurological status due to vasospasm and he is still bedridden,

and in semi unconscious stage. There has been almost permanent incapacitation due to recurrent Meningioma, which is evident in latest CT Brain done on 02.09.2024. Hence he may not improve clinically to the functional level. He won't be able to discharge his duties."

16. Perusal of the certificate would reveal that the employee is bedridden and there is a severe delay in recovery of neurological status due to vasospasm and he is in semi-unconscious state. The Neuro Surgeon has also certified that there is almost permanent incapacitation due to recurrent Meningioma which is evident based on the CT Brain scan carried on 02.09.2024.

17. In the impugned order two reasons for rejecting the claim of the petitioner no.1 for grant of compassionate appointment are furnished viz. (a) the documents annexed with the petition and attached with the application by the petitioner no.1 do not demonstrate with clarity that the husband of the petitioner no.1 has been permanently incapacitated to perform any work in future or that he is suffering from any terminal illness from which he is not likely to recover. Therefore, the respondent cannot adjudge the permanent incapacity of husband of the petitioner no.1 in absence of essential documents proving the same and (b) that the petitioner no.1 has crossed the age of 47 years and the scheme contemplates particularly under Clause 8(B) to grant the appointment on compassionate ground upto the age of 45 years only.

18. The Apex Court in the matter of *V. Sivamurthy* (supra) while summarizing the principles relating to compassionate appointment has observed that the appointment on compassionate ground to meet the crisis in the family on account of medical invalidation of the breadwinner can be granted. While making such observation, the Apex Court was sensitive to the fact that the general rule in the matter of appointment in public service is strictly on the basis of open invitation of applications and merit. The grant of compassionate appointment is an exception carved out to the aforesaid general rule in the interest of justice to meet certain contingencies. One of the exceptions carved out to the aforesaid general rule, in the interest of justice and to meet certain contingencies, is to consider grant of compassionate appointment to the dependents of an employee dying-in-harness and leaving his family in penury or without any means of livelihood. The aforesaid observations are based on purely humanitarian considerations so as to provide a source of livelihood to the family in distress who was unable to meet both ends.

19. As such, by giving purposive interpretation in light of the observations made by the Apex Court in the matter of *Yogender Pal Singh and others vs. Union of India and others* reported in *[(1987) 1 SCC 631]* and *Badshah vs. Urmila Badshah Godse and another* reported in *[(2014) 1 SCC 188]*, we are of the view that Clause 3 of the Revised Guidelines of 2019

must be read out to include the applicability of the scheme to the dependent/family members of the employee of the Department who is paraplegic like the case in hand. The Apex Court in the matter of aforesaid judgment of *S.Sivamurthy* (supra) by drawing support from the observations in another Apex Court judgment in the matter of *Yogender Pal* (supra), has observed that the appointment of a dependent is permissible in both situations when the government servant dies in service or is incapacitated while rendering the service.

20. In the matters of *W.B.SEB. vs. Samir K. Sarkar* reported in *[(1999) 7 SCC 672]* and *Food Corporation of India vs. Ram Kesh Yadav* reported in *[(2007) 9 SCC 531]*, the Apex Court has held that grant of compassionate appointment only in cases of death in harness and not in retirement on medical invalidation cases, is not sound. The Apex Court has further held that when an employee is totally incapacitated like in the case in hand, he is paraplegic and permanently bedridden, and the services of such employee are not taken because of medical invalidation, it cannot be said that such case can be termed as the case of mere sickness. In such cases, the sufferance and consequences which the family faces are much more serious than that of the consequences of the employee dying-in-harness. The Apex Court has further held that where an employee is permanently incapacitated due to serious illness or accident, his services are consequently not available, the

family is thrown to greater financial hardship because not only the income is stopped but at the same time, the considerable additional expenses by way of medical charges as also need for an attendant to constantly look after him have to be met. As such, it is held that the Court cannot lose sight of cases of sick employees. The Apex Court further held that refusing to grant compassionate appointment in case of medical invalidation and granting compassionate appointment in case of death in harness may itself amount to hostile discrimination.

21. In the matter of *Balbir Kaur* (supra), while dealing with the similar issue as regards compassionate appointment, the Apex Court has observed that the denial of compassionate appointment would neither be fair nor reasonable in the context of constitutional philosophy. The concept of social justice is the yardstick to the justice administration system or the legal justice. We also can not lose site to the observation that the greatest virtue of law is in its adaptability and flexibility. The Court ought to apply the law depending upon the situation because the law is made for the society. Whatever is beneficial for the society, the endeavour of the Court of law would be to administer justice having due regard to it.

Relevant observations in paragraphs 8 and 9 of the aforesaid judgment read thus:

“8. The employer being Steel Authority of India, admittedly an authority within the meaning of Article 12 has thus an obligation

to act in terms of the avowed objective of social and economic justice as enshrined in the Constitution but has the authority in the facts of the matters under consideration acted like a model and an ideal employer- it is in this factual backdrop, the issue needs an answer as to whether we have been able to obtain the benefit of constitutional philosophy of social and economic justice or not. Have the lofty ideals which the founding fathers placed before us any effect in our daily life - the answer cannot however but be in the negative- what happens to the constitutional philosophy as is available in the Constitution itself which we ourselves have so fondly conferred on to ourselves. The socialistic pattern of society as envisaged in the Constitution has to be attributed its full meaning. A person dies while taking the wife to a hospital and the cry of the lady for bare subsistence would go unheeded on certain technicality. The breadearner is no longer available and prayer for compassionate appointment would be denied as "it is likely to open a Pandora's Box - this is the resultant effect of our entry into the new millennium. Can the law courts be a mute spectators in the matter of denial of such a relief to the horrendous sufferings of an employee's family by reason of the death of the breadearner? It is in this context this Court's observations in Dharwad Distt. P. W. D. Literate Daily Wage Employees Assn. v. State of Karnataka [1990 (2) SCC 396] seem to be rather apposite. This Court upon consideration of Randhir Singh v. Union of India [1988 (1) SCC122] as also Surinder Singh v. Engineer-in-Chief, CPWD [1986 (1) SCC 639] and D. S. Nakara v. Union of India [1983 (1) SCC 305]."

9. As a matter of fact the constitutional philosophy should be allowed to become a part of every man's life in this country and then only the Constitution can reach everyone and the ideals of the Constitution framers would be achieved since the people would be nearer the goal set by the Constitution - an ideal situation but a far cry presently ."

22. We are sensitive to the stand of the respondent that Clause 3 of the Revised Guidelines 2019 does not include the case of an employee who is

incapacitated in the matter of claim for compassionate appointment. We are equally sensitive to the powers being conferred in the Hon'ble the Chief Justice of the High Court or such other Judge or Officer of the Court to make appointment of officer and servants. We have no intention to encroach upon such powers of the Hon'ble the Chief Justice or the Judge who is conferred with such powers. However, keeping in mind, the constitutional mandate of social justice, we intend to cause interference by giving purposive interpretation thereby reading Clause 3 of the Revised Guidelines of 2019 referred to above for extending the benefit of said Guidelines to the dependents/family members of an employee who is terminally ill for longer period viz. unconscious for longer period, etc., like the one in this case.

23. As such, we hereby declare that the benefit of the Bombay High Court Revised Guidelines for appointment on Compassionate Ground, 2019 shall be extended to the dependent/family members of an employee of the Department who is terminally ill.

24. As far as the embargo created in the matter of grant of employment particularly prescribing the age limit is concerned, the fact remains that the employee of the respondent in this case is terminally ill because of recurrent brain tumor and has undergone multiple brain surgeries from 2016. The family of the employee has incurred huge expenditure to

meet the expenses for treatment of the employee, may be part of it is reimbursed. However that by itself will not lead to draw conclusion that the family member is able to meet or overcome the financial hardship. Rather it is sought to be established that all the saving and service benefits are spent for meeting the medical expenses.

25. The pleadings in the petition rather depict disturbing feature as to the financial burden which is shouldered by the petitioner no.1-wife of the employee who is terminally ill.

The case in hand further reveals that the petitioner no.1 has moved an application for grant of compassionate appointment on 19.12.2022 perhaps by which time she was about to complete the age of 45 years or has just completed the same.

26. In such an eventuality, we are of the view that the category which is carved out viz. the family members of terminally ill employee can seek compassionate appointment even if such family member has crossed the age of 45 years, be placed for approval before the Hon'ble the Chief Justice on administrative side.

27. In this background, we are of the view that the petition needs to be partly allowed thereby quashing and setting aside the impugned order dated 29.01.2024. We direct that the benefit of the Revised Guidelines 2019

referred to above, be extended to the petitioner no.1, provided that the Hon'ble the Chief Justice considers/deems it appropriate to relax the age criteria as contemplated in Clause 8(B) of the Revised Guidelines 2019.

The writ petition is partly allowed. Rule accordingly.

(MRS. VRUSHALI V. JOSHI, J.)

(NITIN W SAMBRE, J.)

Andurkar.