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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP No.2943 of 2021
Reserved on: 03.12.2024
Decided on: 13.12.2024**

Amritpal Singh

....Petitioner

Versus

Pepsu Road Transport Corporation and others

....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. H.P.S. Ghuman, Advocate
for the petitioner.

Mr. Anupam Singla, Advocate
and Mr. Lalit Goyal, Advocate
for the respondents.

NAMIT KUMAR J. (Oral)

1. Prayer in this writ petition filed by the petitioner under Articles 226/227 of the Constitution of India, is for issuance of a writ in the nature of certiorari, seeking quashing of the order dated 28.01.2019 (Annexure P-8). Further prayer has been made to direct the respondents to consider the claim of the petitioner for appointment on compassionate grounds in place of his father, who died in harness.

2. The brief facts as have been pleaded in the petition are that the father of the petitioner namely Sh. Mukhtiar Singh joined the respondent – PEPSU Road Transport Corporation (hereinafter referred to as 'PRTC') as Conductor on 01.06.1979 and unfortunately, he died on 18.07.2001, while he was in service. The petitioner was a minor at that point of time as his date of birth is 25.03.1991 and he was only 10 years

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old at that time. He attained the age of majority of 18 years and applied for compassionate appointment by submitting application dated 21.11.2009 (Annexure P-2). The mother of the petitioner also submitted her affidavit to the effect that she has no objection if the petitioner is given appointment on compassionate grounds. The petitioner again submitted representation on 04.05.2010, seeking compassionate appointment and since no action was taken on the said representations, therefore, the petitioner sought information vide application dated 26.02.2018, under the RTI Act, 2005 and on the said application, reply dated 27.02.2018, was given by the respondents that his Voter Card and date of birth certificate be provided within ten days, which were provided by the petitioner on 27.02.2018 itself. Again the petitioner submitted application, under the RTI Act, seeking information about the outcome of his claim for job on compassionate ground, to which reply dated 16.05.2018 was given by the respondent – PRTC stating therein that his application dated 04.05.2010 seeking compassionate appointment has been considered and filed by the Additional Managing Director and that the certificates/documents appended with the applications submitted by the petitioner in the year 2009-10 were not got attested nor he had produced the original certificates. Finally, the claim of the petitioner was rejected vide order dated 28.01.2019 (Annexure P-8) by stating that the petitioner has applied for appointment on compassionate ground after 09 years of death of his father and as per the instructions of the Punjab Government in the

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policy dated 21.11.2002, he could have applied for compassionate appointment within one year from the date of death of his father and, therefore, the same has been filed. Aggrieved against the said order, the instant petition has been filed by the petitioner.

3. Short reply by way of affidavit of Ketan Kumar Chouhan, Legal Advisor, PEPSU, has been filed on behalf of the respondents, wherein it has been stated as under:-

“5 That with regard to the claim of the petitioner, it is submitted that the Hon’ble Supreme Court in the matter of Umesh Kumar Nagpal vs State of Haryana, reported in 1994 (4) SCC 138 held that the scheme for compassionate appointment has been formulated to enable the family of the deceased employee to tide over the sudden crisis. It is a settled proposition of law that mere death of an employee in harness does not entitled his family to such source of livelihood. The Government or the Public Authority concerned has a right 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 a job is to be offered to the eligible member of the family. The object of the scheme of compassionate appointment is to enable the family to get out the financial crisis which it faces at the time of the death of the sole breadwinner.

6. That in pursuance to the judgement passed by the Hon'ble Supreme Court (supra), the Government of Punjab has framed scheme for compassionate appointments-2002 (Annexure P-9).

7. That a perusal of Clause 3 of the policy would reveal that it is the widow of the deceased who has first right of

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appointment on compassionate basis after the death of the concerned employee. Clause 13 of the policy would further provide that an application for seeking appointment on compassionate basis is required to be submitted within a period of six months to the appointing authority. In the present case the widow of the deceased had not submitted any application within the time framed for seeking compassionate appointment for her or for reserving one post for her son, so that the respondent corporation could enter the name of the petitioner in the priority register maintained by the respondent corporation of the candidates seeking appointment on compassionate basis. However, the fact remains that no such application was submitted by the widow of the deceased to claim compassionate appointment in the year 2001 i.e. the year when her husband was expired. It is only on 04.05.2010 (Annexure P-4) i.e. after almost nine years, the petitioner had approached the respondent corporation to seek appointment on the basis of compassionate basis. Hence the application seeking appointment on compassionate basis by the petitioner has been rightly rejected by the respondent corporation being time barred.

8. That it is also pertinent to mention here that as submitted above, the policy of compassionate appointment was framed by the State Government with the purpose to enable the family of the deceased to get over the immediate financial crisis. Since the petitioner had submitted application for compassionate appointment after a period of nine years from the date of his death the same would certainly mean that the family of the deceased had survived after the death of the deceased for a reasonable time, which would suggest that there was no financial crisis in

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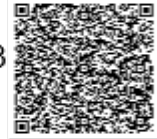


the family of the deceased employee, when the son of the deceased employee has applied for compassionate appointment in the year 2010. Hence on this ground as well, the petitioner is not entitled to claim compassionate appointment at such a belated stage.

9. That it is an admitted fact that the father of the petitioner had died on 18.07.2001 and the petitioner suddenly woke up after 9 years to seek appointment on compassionate basis. The petitioner failed to point out the reasons as to why his mother had not submitted the requisite application for seeking appointment on compassionate basis immediately after the death of her husband. The basic purpose of providing compassionate appointment is to overcome the sudden financial crisis on the family and the basic purpose of providing compassionate appointment defeat when the same is being claimed and provided after a lapse of considerable period of time.”

4. In nutshell, it has been stated in the reply that the Punjab Government has framed the scheme for Compassionate Appointment, 2002 and under Clause (iii) of the said policy, it is the widow of the deceased, who has the first right for appointment on compassionate basis after the death of the concerned employee. The widow (mother of the petitioner) never applied for compassionate appointment at the time of death of her husband and the petitioner has submitted application on attaining the age of majority, after about 09 years of the death of his father, whereas as per the Policy, the application could have been submitted within a period of one year from the date of death, therefore, the claim of the petitioner has rightly been rejected.

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5. Learned counsel for the petitioner has argued that the claim of the petitioner for compassionate appointment has wrongly been rejected by the respondents as the petitioner applied for compassionate appointment immediately on attaining the age of majority and there is no delay on his part and, therefore, he is entitled to be appointed on compassionate ground, in lieu of the death of his father, who has served the respondents as Conductor.

6. Per contra, learned counsel for the respondents has argued that the father of the petitioner had died in the year 2001 and at that point of time, the petitioner was minor and the mother of the petitioner did not apply for compassionate appointment and the petitioner for the first time submitted the application on 21.11.2009 and whereas as per Policy, the application can be submitted within a period of six months and therefore, his claim has rightly been rejected.

7. I have heard learned counsel for the parties and perused the record.

8. The facts are not in dispute that the father of the petitioner had died on 18.07.2001 and at that point of time, the petitioner was minor as his date of birth is 25.03.1991 and he was about 10 years of age at the time of death of his father. After the petitioner attained the age of majority, he submitted the application for compassionate appointment on 21.11.2009 along with affidavit of his mother to the effect that she has no objection if the petitioner is offered appointment on compassionate grounds. The said claim has been rejected by the

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respondents vide order dated 28.01.2019 on the ground that the petitioner had applied after 09 years of death of his father and whereas as per instructions of the Punjab Government, he could have applied for appointment within a period of six months from the date of death of his father.

9. Before proceeding further, it would be apt to mention the object of the Policy dated 21.11.2002 framed by the State Government for compassionate appointments. The same reads as under:-

Sub: Scheme for Compassionate Appointments-2002-Grant of employment in the State Services on compassionate grounds-Policy regarding.

Sir/Madam,

I am directed to address you on the subject noted above and to say that at present the policy regarding grant of employment in the State Services. Class III and IV on compassionate grounds is mainly contained in circular letter No. 11/27/94-2PPI/2364, dated 05-02-1996. This policy was framed on the basis of the judgement of the Hon'ble Supreme Court of India delivered in the case of "Umesh Kumar Nagpal Versus State of Haryana and others (1994) 4. S.C. cases (138). The Apex Court held that the object of compassionate appointments is to enable the penurious family of the deceased employee to tide over the sudden financial crisis and not to provide employment. It was further held that mere death of an employee does not entitle his family to compassionate appointment. The authority concerned must consider as to whether the family of the deceased employee is unable to meet the financial crises resulting from the employee's death. The offering

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compassionate appointments as a matter of course irrespective of the financial conditions of the family of the deceased and making compassionate appointment in posts above class III and IV, is legally impermissible. The compassionate appointments can not be granted after a lapse of reasonable period, which must be specified in the rules. The consideration for such employment is not a vested right which can be exercised at any time in future. The object being to enable the family to get over the financial crises which it faces at the time of death of the sole bread winner, the compassionate employment can not be claimed and offered, whatever the lapse of time and after the crises is over.

It has been considered appropriate that there is need to review the whole policy on compassionate appointments by taking a cue from the policy of Government of India and to impose strict conditions so that compassionate appointments are available only to very deserving cases, Most of the vacancies that are available or accrue in direct quota posts in various departments are consumed by these compassionate appointments considerably reducing vacancies for carrying out recruitments from the open market. This has a direct reflection on the efficiency and working of the departments as it restricts the Government for making selections from a wider choice of candidates. Imposition of a cap on compassionate appointments will also protect the legitimate right of young qualified persons who are waiting for their turn for being recruited in various departments of the Government for years.

2. The State Government has decided to review the policy on compassionate grounds strictly, on the decision of the Hon'ble Supreme Court of India in the case of

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'Umesh Kumar Nagpal Versus State of Haryana' referred as above. The Government has reconsidered all the earlier instructions issued from time to time on compassionate appointments and has decided to review the policy to provide the benefit only to deserving candidates as per direction of the Apex Court referred in Para-1 above.

3. Henceforth, the objective of the Scheme is limited to grant of appointment on compassionate grounds to persons who fall in the categories mentioned below:-

- (i) xxx;*
- (ii) A dependent member of the family of the deceased Government employee, who dies in harness;*
- (iii) xxx;*
- (iv) xxx;*
 - (i) xxx; or*
 - (ii) xxx*

NOTE-I Dependent Family Member 'means'

- (a) Spouse; or*
- (b) Son (including adopted son); or*
- c) Un-married Daughter (including adopted Daughter): or*
- (d) Un-married Brother or Un-married Sister in the case of unmarried Government Servant, who was wholly dependent on the Government Servant member of the Armed Forces at the time of his death in harness.*

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13. PROCEDURE

- (a) The performa as in Annexure-I may be used by Departments/offices for ascertaining necessary information and processing the cases of compassionate appointment along with the*

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documents as given in Annexure-II, and submitted to the Appointing Authority within a period of six months from the date of death or disability of a person/employee as the case may be. Appointment must be made within a period of one year within the Department and 2 years in other departments through Re-deployment Cell. Genuine belated requests with cogent reasons for compassionate appointment can be entertained only within a period of 5 years from the date of death or disability of the employee person with the special approval of the Personnel Department and Finance Department.

10. A perusal of the relevant Clauses of the Policy show that the object of compassionate appointment is to enable the penurious family of the deceased employee to tide over the sudden financial crises and not to provide employment. Mere death of an employee does not entitle his family to compassionate appointment. The authority concerned must consider as to whether the family of the deceased employee is unable to meet the financial crises resulting from the employee's death and the compassionate appointment cannot be granted after a lapse of reasonable period.

11. The Hon'ble Supreme Court in ***Umesh Kumar Nagpal Vs. State of Haryana : 1994(3) S.C.T. 174***, while considering the rights of the family of the deceased employee has held that compassionate appointment is an exception to the general rule of making appointments in conformity with the Articles 14 and 16 of the Constitution of India. In the said judgment, it has been held as under :-

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“2. The question relates to the considerations which should guide while giving appointment in public services on compassionate ground. It appears that there has been a good deal of obfuscation on the issue. As a rule, appointments in the public services should be made strictly on the basis of open invitation of applications and met-it. No other mode of appointment nor any other consideration is neither the Governments nor the public authorities are at liberty to follow any other procedure or relax the qualifications laid down by the rules for the post. However, to this general rule which is to be followed strictly in every case, there are some exceptions carved out in the interests of justice and to meet certain contingencies. One such exception is in favour of the dependents of an employee dying in harness and leaving his family in penury and without any means of livelihood. In such cases, out of pure humanitarian consideration taking into consideration the fact that unless some source of livelihood is provided, the family would not be able to make both ends meet, a provision is made in the rules to provide gainful employment to one of the dependents of the deceased who may be eligible for such employment. The whole object of granting compassionate employment is thus to enable the family to tide over the sudden crisis. The object is not to give a member of such family a post much less a post for post held by the deceased. What is further, mere death of an employee in harness does not entitle his family to such source of livelihood. The Government or the public 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 a job is to be offered to the eligible member of the family. The posts in Classes III and IV are the lowest posts in non-manual and manual categories and hence they alone can be offered on compassionate grounds, the object being to relieve the family, of the financial destitution and to help it get over the emergency. The provision of employment in such lowest posts by making an exception to the rule is justifiable and valid since it is not discriminatory. The favourable treatment given to such dependent of the deceased employee in such posts has a rational nexus with the object

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sought to be achieved, viz., relief against destitution. No other posts are expected or required to be given by the public authorities for the purpose. It must be remembered in this connection that as against the destitute family of the deceased there are millions of other families which are equally, if not more destitute. The exception to the rule made in favour of the family of the deceased employee is in consideration of the services rendered by him and the legitimate expectations, and the Change in the status and affairs, of the family engendered by the erstwhile employment which are suddenly upturned.

3. *Unmindful of this legal position, some Governments and public authorities have been offering compassionate employment sometimes as a matter of course irrespective of the financial condition of the family of the deceased and sometimes even in posts above Classes III and IV. That is legally impermissible.*

4. *It is for these reasons that we have not been in a position to appreciate judgments of some of the High Courts which have justified and even directed compassionate employment either as a matter of course or in posts above Classes III and IV. We are also dismayed to find that the decision of this Court in **Sushma Gosain v. Union of India, JT 1989(3) SC 570 : 1989(4) SLR 327** has been misinterpreted to the point of distortion. The decision does not justify compassionate employment either as a matter of course or in employment in posts above Classes III and IV. In the present case, the High Court has rightly pointed out that the State Government's instructions in question did not justify compassionate employment in Class 11 posts. However, it appears from the judgment that the State Government had made at least one exception and provided compassionate employment in Class II post on the specious ground that the person concerned had technical qualifications such as M.B.B.S., B.E., B.Tech. etc. Such exception, as pointed out above, is illegal, since it is contrary to the object of making exception to the general rule. The only ground which can justify compassionate employment is the penurious condition of the deceased's family. Neither the qualifications of his dependent nor the post which he held is relevant. It is for this reason that we*

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are unable to understand the following observations of the High Court in the impugned judgment:

"We are of the view that the extraordinary situations require extraordinary remedies and it is open to the Government in real hard cases to deviate from the letter and spirit of the instructions and to provide relief in cases where it is so warranted. To hold as a matter of law that the Government cannot deviate even minutely from the policy of providing appointment only against Class III and Class IV posts, would be to ignore the reality of life these days. It would be ridiculous to expect that a dependent of a deceased Class I Officer, should be offered appointment against a Class III or IV post. While we leave it to the Government to exercise its discretion judiciously in making appointments to Class I or II posts on compassionate grounds, yet a word of caution needs to be struck. It is to be noted that such appointments should be ordered in the rarest of rare cases, and in very exceptional circumstances. As a matter of fact, we would recommend that the Government should frame a policy even for such appointments."

5. *It is obvious from the above observations that the High Court endorses the policy of the State Government to make compassionate appointment in posts equivalent to the posts held by the deceased employees and above Classes III and IV. It is unnecessary to reiterate that these observations are contrary to law. If the dependent of the deceased employee finds it below his dignity to accept the post offered, he is free not to do so. The post is not offered to cater to his status but to see the family through the economic calamity.*

6. *For these very reasons, the compassionate employment cannot be granted after a lapse of a reasonable period which must be specified in the rules. The consideration for such employment is not a vested right which can be exercised at any time in future. The object being to enable the family to get over the financial crisis which it faces at the time of the death of the sole breadwinner, the compassionate employment cannot be*

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claimed and offered whatever the lapse of time and after the crisis is over.

7. *It is needless to emphasise that the provisions for compassionate employment have necessarily to be made by the rules or by the executive instructions issued by the Government or the public authority concerned. The employment cannot be offered by an individual functionary on an ad hoc basis.*”

12. Hon’ble Supreme Court while considering the similar issue in ***Union of India and another Vs. B. Kishore : 2011(3) S.C.T. 18*** has held as under: -

“6. *In State Bank of India v. Raj Kumar, 2010(4) S.C.T. 77 : (2010) 11 SCC 661, elucidating the nature of the scheme of compassionate appointments this Court observed :-*

"It is now well settled that appointment on compassionate grounds is not a source of recruitment. On the other hand it is an exception to the general rule that recruitment to public services should be on the basis of merit, by an open invitation providing equal opportunity to all eligible persons to participate in the selection process. The dependants of employees, who die in harness, do not have any special claim or right to employment, except by way of the concession that may be extended by the employer under the rules or by a separate scheme, to enable the family of the deceased to get over the sudden financial crisis. The claim for compassionate appointment is therefore traceable only to the scheme framed by the employer for such employment and there is no right whatsoever outside such scheme. An appointment under the scheme can be made only if the scheme is in force and not after it is abolished/withdrawn. It follows therefore that when a scheme is abolished, any pending application seeking appointment under the scheme will also cease to exist, unless saved. The mere fact that an application was made when the scheme was in force, will not by itself create a right in favour of the

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applicant."

13. To the same effect is the judgment of a Division Bench of this Court in ***Rajesh Kumar Vs. Union of India and others : 2011(4) S.C.T. 218***, wherein it has been held as under: -

*"4. Having heard learned counsel for the parties we are of the considered view that the view taken by the Tribunal does not suffer from any legal infirmity warranting interference of this Court. The Tribunal has rightly observed that the compassionate appointment is not a mode of entry into service but it is only to help the surviving members of the family to overcome sudden financial crisis created by the sudden death of the bread winner, as has been held by Hon'ble the Supreme Court in the cases of **National Hydro v. Nanak Chand, 2004(4) S.C.T. 724 : (2004) 12 SCC 487 : [2005 (1) SLR 1 (SC)]** and **Hindustan Aeronautics Limited v. Smt. A. Radhika Thirumalal 1997(1) S.C.T. 329 : 1996 (9) SC 197 : [1996 (6) SLR 21 (SC)]**. Such an appointment cannot be secured as a matter of right as it is an exception to Articles 14 and 16(1) of the Constitution. The father of the applicant-petitioner expired on 19.7.2004. It cannot be concluded that the situation created by his death is still prevailing and continuing. Hon'ble the Supreme Court in the cases of **Santosh Kumar Dubey v. State of U.P. 481 2009(3) S.C.T. 629 : 2009(4) Recent Apex Judgments (R.A.J.) 563 : [2010 (1) SLR 261 (SC)]** and **Mumtaz Yunus Mulani v. State of Maharashtra, 2008(2) S.C.T. 669 : 2008(3) Recent Apex Judgments (R.A.J.) 263 : (2008) 11 SCC 384 : [2008 (3) SLR 782 (SC)]**, has held that compassionate appointment after lapse of number of years is impermissible. There is, thus, no merit in the instant petition and accordingly the same is dismissed."*

14. Hon'ble Supreme Court in its latest judgment in ***The State of West Bengal Vs. Debabrata Tiwari and others : 2023 AIR Supreme Court 1467***, while considering the similar issue and after considering



various judgments of the Hon'ble Supreme Court, has held as under :-

“Policy of Compassionate Appointment: The Rationale:

7. *The majesty of death is that it is a great leveller for, it makes no distinction between the young and the old or the rich and the poor. Death being as a consequence of birth at some point of time is inevitable for every being. Thus, while death is certain, its timing is uncertain. Further, a deceased employee does not always leave behind valuable assets; he may at times leave behind poverty to be faced by the immediate members of his family. Therefore, what should be done to ensure that death of an individual does not mean economic death for his family? The State's obligation in this regard, confined to its employees who die in harness, has given rise to schemes and rules providing for compassionate appointment of an eligible member of his family as an instance of providing immediate succour to such a family. Support for such a provision has been derived from the provisions of Part IV of the Constitution of India, i.e., Article 39 of the Directive Principles of State Policy.*

7.1. *It may be apposite to refer to the following decisions of this Court, on the rationale behind a policy or scheme for compassionate appointment and the considerations that ought to guide determination of claims for compassionate appointment.*

- i. *In **Sushma Gosain vs. Union of India, (1989) 4 SCC 468**, this Court observed that in all claims for appointment on compassionate grounds, there should not be any delay in appointment. That the purpose of providing appointment on compassionate grounds is to mitigate the hardship caused due to the death of the bread earner in the family. Such appointment should, therefore, be provided immediately to redeem the family in distress.*
- ii. *In **Umesh Kumar Nagpal vs. State of Haryana, (1994) 4 SCC 138**, this Court observed that the object of granting compassionate employment is to enable the family of a deceased government employee to tide over the sudden crisis by providing gainful employment to one of the dependents of the*

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deceased who is eligible for such employment. That mere death of an employee in harness does not entitle his family to such source of livelihood; the Government or the public 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 a job is to be offered to the eligible member of the family, provided a scheme or rules provide for the same. This Court further clarified in the said case that compassionate appointment is not a vested right which can be exercised at any time after the death of a government servant. That the object being to enable the family to get over the financial crisis which it faces at the time of the death of the sole breadwinner, compassionate employment cannot be claimed and offered after lapse of considerable amount of time and after the crisis is overcome.

- iii. *In **Haryana State Electricity Board vs. Hakim Singh, (1997) 8 SCC 85**, (“Hakim Singh”) this Court placed much emphasis on the need for immediacy in the manner in which claims for compassionate appointment are made by the dependants and decided by the concerned authority. This Court cautioned that it should not be forgotten that the object of compassionate appointment is to give succour to the family to tide over the sudden financial crisis that has befallen the dependants on account of the untimely demise of its sole earning member. Therefore, this Court held that it would not be justified in directing appointment for the claimants therein on compassionate grounds, fourteen years after the death of the government employee. That such a direction would amount to treating a claim for compassionate appointment as though it were a matter of inheritance based on a line of succession.*
- iv. *This Court in State of **Haryana vs. Ankur Gupta, AIR 2003 SC 3797** held that in order for a claim for compassionate appointment to be considered*

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reasonable and permissible, it must be shown that a sudden crisis occurred in the family of the deceased as a result of death of an employee who had served the State and died while in service. It was further observed that appointment on compassionate grounds cannot be claimed as a matter of right and cannot be made available to all types of posts irrespective of the nature of service rendered by the deceased employee.

- v. *There is a consistent line of authority of this Court on the principle that appointment on compassionate grounds is given only for meeting the immediate unexpected hardship which is faced by the family by reason of the death of the bread earner vide **Jagdish Prasad vs. State of Bihar, (1996) 1 SCC 301**. When an appointment is made on compassionate grounds, it should be kept confined only to the purpose it seeks to achieve, the idea being not to provide for endless compassion, vide **I.G. (Karmik) vs. Prahalad Mani Tripathi, (2007) 6 SCC 162**. In the same vein is the decision of this Court in **Mumtaz Yunus Mulani vs. State of Maharashtra, (2008) 11 SCC 384**, wherein it was declared that appointment on compassionate grounds is not a source of recruitment, but a means to enable the family of the deceased to get over a sudden financial crisis.*
- vi. *In **State of Jammu and Kashmir vs. Sajad Ahmed Mir, AIR 2006 SC 2743**, the facts before this Court were that the government employee (father of the applicant therein) died in March, 1987. The application was made by the applicant after four and half years in September, 1991 which was rejected in March, 1996. The writ petition was filed in June, 1999 which was dismissed by the learned Single Judge in July, 2000. When the Division Bench decided the matter, more than fifteen years had passed from the date of death of the father of the applicant. This Court remarked that the said facts were relevant and material as they would demonstrate that the family survived in spite of death of the employee. Therefore, this Court held*

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that granting compassionate appointment after a lapse of a considerable amount of time after the death of the government employee, would not be in furtherance of the object of a scheme for compassionate appointment.

- vii. *In Shashi Kumar, this Court speaking through Dr. D.Y. Chandrachud, J. (as His Lordship then was) observed that compassionate appointment is an exception to the general rule that appointment to any public post in the service of the State has to be made on the basis of principles which accord with Articles 14 and 16 of the Constitution. That the basis of the policy is that it recognizes that a family of a deceased employee may be placed in a position of financial hardship upon the untimely death of the employee while in service. That it is the immediacy of the need which furnishes the basis for the State to allow the benefit of compassionate appointment. The pertinent observations of this Court have been extracted as under:*

“41. Insofar as the individual facts pertaining to the Respondent are concerned, it has emerged from the record that the Writ Petition before the High Court was instituted on 11 May 2015. The application for compassionate appointment was submitted on 8 May 2007. On 15 January 2008 the Additional Secretary had required that the amount realized by way of pension be included in the income statement of the family. The Respondent waited thereafter for a period in excess of seven years to move a petition Under Article 226 of the Constitution. In Umesh Kumar Nagpal (supra), this Court has emphasized that the basis of a scheme of compassionate appointment lies in the need of providing immediate assistance to the family of the deceased employee. This sense of immediacy is evidently lost by the delay on the part of the dependant in seeking compassionate appointment.”

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7.2. *On consideration of the aforesaid decisions of this Court, the following principles emerge:*

- i. *That a provision for compassionate appointment makes a departure from the general provisions providing for appointment to a post by following a particular procedure of recruitment. Since such a provision enables appointment being made without following the said procedure, it is in the nature of an exception to the general provisions and must be resorted to only in order to achieve the stated objectives, i.e., to enable the family of the deceased to get over the sudden financial crisis.*
- ii. *Appointment on compassionate grounds is not a source of recruitment. The reason for making such a benevolent scheme by the State or the public sector undertaking is to see that the dependants of the deceased are not deprived of the means of livelihood. It only enables the family of the deceased to get over the sudden financial crisis.*
- iii. *Compassionate appointment is not a vested right which can be exercised at any time in future. Compassionate employment cannot be claimed or offered after a lapse of time and after the crisis is over.*
- iv. *That compassionate appointment should be provided immediately to redeem the family in distress. It is improper to keep such a case pending for years.*
- v. *In determining as to whether the family is in financial crisis, all relevant aspects must be borne in mind including the income of the family, its liabilities, the terminal benefits if any, received by the family, the age, dependency and marital status of its members, together with the income from any other source.*

7.3. *The object underlying a provision for grant of compassionate employment is to enable the family of the deceased employee to tide over the sudden crisis due to the death of the bread-earner which has left the family in penury and without any means of livelihood. Out of pure*

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humanitarian consideration and having regard to the fact that unless some source of livelihood is provided, the family would not be in a position to make both ends meet, a provision is made for giving gainful appointment to one of the dependants of the deceased who may be eligible for such appointment. Having regard to such an object, it would be of no avail to grant compassionate appointment to the dependants of the deceased employee, after the crisis which arose on account of death of a bread-winner, has been overcome. Thus, there is also a compelling need to act with a sense of immediacy in matters concerning compassionate appointment because on failure to do so, the object of the scheme of compassionate would be frustrated. Where a long lapse of time has occurred since the date of death of the deceased employee, the sense of immediacy for seeking compassionate appointment would cease to exist and thus lose its significance and this would be a relevant circumstance which must weigh with the authorities in determining as to whether a case for the grant of compassionate appointment has been made out for consideration.

7.4. As noted above, the sine qua non for entertaining a claim for compassionate appointment is that the family of the deceased employee would be unable to make two ends meet without one of the dependants of the deceased employee being employed on compassionate grounds. The financial condition of the family of the deceased, at the time of the death of the deceased, is the primary consideration that ought to guide the authorities' decision in the matter."

15. Recently, the Hon'ble Supreme Court in **Tinku vs State of Haryana and others**", 2024 INSC 867, while considering the similar question has held as under:-

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14. The very basis and the rationale, wherever such policies are framed for compassionate appointment is with an object to grant relief to a family in distress and facing destitution, and thus an exception is culled out to the general rule in favour of the family of the deceased employee. This is resorted to by taking into consideration the services rendered by such employee and the consequent legitimate legal expectations apart from the sudden change in status and affairs of the family because of the unexpected turn of events, i.e. the loss of the sole bread earner.

15. The purpose, therefore, of such policies is to give immediate succour to the family. When seen in this conspectus, three years as has been laid down from the date of death of the employee for putting forth a claim by a dependant, which, includes attainment of majority as per the 1999 policy instructions issued by the Government of Haryana cannot be said to be in any case unjustified or illogical, especially when compassionate appointment is not a vested right.

16. In the present case, as is apparent from the record, the Appellant attained majority 11 years after the unfortunate death of his father. The claim, thus, has rightly been rejected by the respondent State. The decisions of the High Court vide the impugned judgments rejecting the claim of the Appellant thus, cannot be faulted with.

17. The claim of the Appellant for appointment on compassionate grounds having been found to be not sustainable, an aspect that has come to light which requires consideration as has been put forth by the learned Counsel for the Appellant, is with regard to the grant of ex-gratia financial assistance. This is asserted in the light of

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the fact that the claim of the Appellant was pending consideration for compassionate appointment for long with the respondents, and the same had finally been decided on 28.04.2009 by rejecting the same and that too primarily on the ground that the said claim is time barred. It is further stated that in the impugned Order dated 28.04.2009 that there is no provision for providing job under the ex-gratia scheme in the 2006 Rules.

16. Coming back to the facts of the present case, the father of the petitioner died on 18.07.2001 and the petitioner applied for compassionate appointment on 21.11.2009 i.e. more than 08 years (approx) and, therefore, his claim has rightly been rejected by the respondents, being time barred. Even otherwise, a period of about 20 years has elapsed and, therefore, the claim of the petitioner is not permissible under the law because the consideration for such employment is not a vested right which can be exercised at any time in future, after the crisis is over. The object of the Policy is to enable the family to get over the financial crises which it faces at the time of the death of the sole breadwinner.

17. In view of the above, there is no merit in the present petition and the same is hereby dismissed, with no order as to costs.

(NAMIT KUMAR)
JUDGE

13.12.2024
yakub

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No