



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

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**CWP-24865-2024****Date of Decision : 26.09.2024**

Sobia Mujib

.....Petitioner

Versus

State of Punjab and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR**

Present : Mr. L.S. Sidhu, Advocate for the petitioner.

Mr. Surya Kumar, A.A.G., Punjab.

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**NAMIT KUMAR, J. (ORAL)**

1. The petitioner has invoked the jurisdiction of this Court by filing the instant petition under Article 226 of the Constitution of India seeking a writ of certiorari, quashing the orders dated 28.07.2022 (Annexure P-8) and 22.06.2023 (Annexure P-9), whereby the claim of the petitioner for compassionate appointment has been rejected.

2. The brief facts, as have been pleaded in the petition, are that father of the petitioner Sh. Mujib Rehman Khan was working as Supervisor with Market Committee, Ahmedgarh and he died on 22.03.2012 in harness. On his death, his son namely Kasif Ali Khan was appointed as Peon at Market Committee, Ahmedgarh on compassionate ground. In pursuance to the said appointment, he joined and thereafter, started absenting himself from duty during the probation period. Therefore, he was issued show cause notices dated 15.04.2014, 19.04.2014 and 06.05.2014 which were replied by him by stating that the reason of his absence is his mental illness, however, he could not

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produce any supporting documents for sanction of his leave. Since the Market Committee did not find the reply to be satisfactory, therefore, vide letter dated 27.08.2015, Kasif Ali Khan was called for hearing, however, he could not produce any evidence of his mental illness and finding his reply to be unsatisfactory, he was declared absent from duty w.e.f. 01.04.2014 and the Market Committee initiated disciplinary proceedings against him under Rule 8 of the 'Punjab State Agricultural Marketing Service (Punishment and Appeal) Rules, 1988' (hereinafter referred as '1988 Rules') by issuing a charge-sheet dated 21.06.2016 and after holding a regular departmental inquiry, his services were terminated, vide resolution dated 30.11.2016, passed by the Market Committee, Ahmedgarh and he was informed about the same vide letter dated 07.12.2016. He preferred an appeal under Rule 15 of the 1988 Rules before the Secretary, Punjab Mandi Board, Chandigarh and the Appellate Authority set aside the resolution dated 30.11.2016 of the Market Committee, Ahmedgarh and the case was remanded back for passing a fresh speaking order within a period of one month, vide order dated 21.03.2018. The Administrator of the Market Committee-cum-Sub Divisional Magistrate passed order dated 21.05.2018/04.06.2018, whereby services of Kasif Ali Khan were terminated w.e.f. 01.04.2014. Against the said order again an appeal was preferred by Kasif Ali Khan before the Secretary, Punjab Mandi Board, Chandigarh. During the course of hearing in the appeal, on 19.02.2020, the following order was passed :-

*“The applicant (Kasif Ali) appeared before the undersigned. He stated that during the period of absent he*



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*was mentally ill & he was taking the treatment from the Hospital Mind Care, Ludhiana. He also submitted the medical reports and stated that he is fully fit for the duty. But I observed him and he was not looking fit as he was absent mind during the hearing.*

*I have considered opinions that get the medical fitness report from concerned CMO regarding his fitness.”*

Consequently, vide letter dated 05.03.2020, Kasif Ali Khan was asked to get himself medically examined and obtain the Medical Fitness Report. This letter was followed by reminders dated 15.02.2021 and 27.04.2021, however, Kasif Ali Khan failed to obtain the Medical Fitness Report and did not submit the same with the Appellate Authority. Vide order dated 10.03.2022, the Secretary, Punjab Mandi Board, Chandigarh sent the appeal to the District Mandi Officer, Sangrur and the said authority vide letter dated 02.05.2022 called upon the appellant-Kasif Ali Khan to produce the Medical Fitness Report. The said letter was followed by reminder dated 18.08.2022. In response thereto, the mother of Kasif Ali Khan submitted an application dated 05.09.2022 submitting that her son is ready and willing to undergo Medical Fitness Test, however, the Medical Officer, Malerkotla has not given appointment for the same. Thereafter, letter dated 08.09.2022 was addressed to the Medical Officer, Malerkotla with a request to give an appointment for the medical examination of Kasif Ali Khan. In response thereto, the Senior Medical Officer, Incharge, Sub Divisional Hospital, Malerkotla, vide his letter dated 27.09.2022 constituted the Medical Board and fixed the time of medical examination of Kasif Ali Khan on 06.10.2022 at 12:30 p.m. and Kasif Ali Khan was informed vide letter dated 30.09.2022 to appear before the Medical Board and it was clarified that the same would be



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the last and final chance and in case he fails to appear before the Medical Board then ex parte decision shall be taken and the appeal will be consigned to record and no further opportunity shall be afforded. The letter dated 30.09.2022 reads as under :-

*“Regarding the aforementioned subject/reference, your mother Smt. Sumaira Begum had, on dated 05.09.2022 filed an application and it was requested that we are ready to undergo the test, however, the Medical Officer, Malerkotla has not yet given us the appointment for conducting the test.*

*This office has requested Medical Officer, Malerkotla at its own level for seeking appointment for conducting the medical test. Considering the same, the Senior Medical Officer, Incharge, Sub Divisional Hospital, Malerkotla vide his order No.4048, dated 27.09.2022, endorsement No.4049-52, dated 27.09.2022 has constituted a Board. The time has been fixed at 12:30 pm on dated 06.10.2022 (Copy of the office order is appended).*

*Regarding the aforementioned, it is informed to you that you should appear before the Medical Board at the fixed time on the fixed date. In case you do not present yourself before the Medical Board, then it would be considered that you are not serious in pursuing your appeal and you are deliberately not cooperating in getting the appeal decided and you are deliberately wasting the precious time of this office. Even on earlier occasion, the Reader in Court, Secretary, Punjab Mandi Board, Mohali, vide letter No.62-64, dated 05.03.2020, letter No.Reader/Secretary/25, dated 15.02.2021 and letter No.Reader/Secretary/68, dated 27.04.2021 has given many opportunities and enough time to you for undergoing the medical test. This would be the last opportunity given to you. In case you do not appear before the Medical Board on the fix time then the ex parte order will be passed and your appeal will be consigned and no further opportunity will be given in future. You shall be personally responsible for such ex parte order.”*

The Senior Medical Officer, Incharge, Sub Divisional Hospital, Malerkotla vide, his letter dated 04.11.2022, informed the District Mandi Officer, Sangrur that Kasif Ali Khan has failed to appear before



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the Medical Board on the given date and place. Consequently, the appeal filed by Kasif Ali Khan was rejected vide order dated 12.01.2023.

3. Thereafter, the petitioner, who is daughter of deceased-Sh. Mujib Rehman Khan, vide application dated 04.03.2023, requested the Chairman, Punjab Mandi Board, Chandigarh to consider her case for compassionate appointment as her brother Kasif Ali Khan could not continue in service and has been terminated due to his mental health and her family is in dire economic distress with no other source of income. The said claim of the petitioner has been rejected by the District Mandi Officer, Sangrur vide his letter dated 28.07.2022 by passing the following order :-

*“Regarding the aforementioned subject/reference, it is informed that upon the death of Shri Muzib Rehman Khan, Mandi Supervisor, Office of Market Committee, Ahmedgarh, the Market Committee, Ahmedgarh has already given compassionate appointment to his son/your elder brother Shri Kasif Ali Khan.*

*As per para No.15(b) of letter No. 11/105/98/4PP/II/14420, dated 21.11.2002 issued by Punjab Government, Personnel Department (Personnel Policy-II Branch) "An appointment made on compassionate grounds cannot be transferred to any other person and any request for the same on consideration of compassion should invariably be rejected'.*

*In accordance with the aforesaid instructions issued by the Punjab Government, your application for compassionate appointment in place of your elder brother Shri Kasif Ali Khan is not liable to be considered. Hence, the application filed by you is being consigned to record.”*

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It appears that the petitioner has further submitted some representation and the same has also been rejected vide order dated 22.06.2023 in view of the earlier rejection order dated 28.07.2022. Against the said orders, the petitioner has preferred the present writ petition.

4. Learned counsel for the petitioner has contended that although Kasif Ali Khan (son of the deceased and brother of the present petitioner) was given appointment on compassionate grounds, however, due to suffering from psychotic illness, he remained absent from duty and his services have been terminated. Since due to his mental illness, the brother of the petitioner was not able to continue his job, therefore, the petitioner has claimed compassionate appointment in his place and the said claim has wrongly been rejected by the respondents. Therefore, appropriate directions may be issued to the respondents-authorities to appoint the petitioner on compassionate grounds keeping in view the fact that there is no other source of income of the family of the petitioner.

5. Learned State counsel, who has appeared on receipt of advance copy of the writ petition, submits that once the son of the deceased employee-Muzib Rehman Khan has already been given appointment on compassionate grounds, as per Clause 15(b) of the Policy dated 21.11.2022, the claim of the petitioner has rightly been rejected.

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



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7. The facts are not in dispute that the father of the petitioner namely Muzib Rehman Khan, who was working as Supervisor with the Market Committee, Ahmedgarh, died on 22.03.2012 in harness and his son Kasif Ali Khan was appointed as Peon on 09.04.2013 on compassionate grounds in pursuance to the resolution dated 26.03.2013 passed by the Market Committee, Ahmedgarh. However, he was declared absent from duty w.e.f. 01.04.2014 and after holding a regular departmental inquiry, his services have been terminated vide resolution dated 30.11.2016 duly conveyed to the petitioner vide letter dated 07.12.2016. Departmental appeal preferred by him has also been rejected vide order dated 12.01.2023. Thereafter, the present petitioner, who is daughter of the deceased employee- Muzib Rehman Khan submitted an application dated 04.03.2023 seeking compassionate appointment and the said claim has been rejected by the respondents vide order dated 28.07.2022 under Clause 15(b) of the Policy dated 21.11.2002 which provides that ***“an appointment made on compassionate grounds cannot be transferred to any other person and any request for the same on considering the compassion should invariably be rejected”***.

8. 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 :-



“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 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 II 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 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 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.”*

9. 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 applicant."*

10. 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.”

11. 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 been 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 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 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 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.”*

*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 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."*

12. Undoubtedly, the respondents have fulfilled their duty by granting the compassionate appointment to the son of the deceased employee vide order dated 09.04.2013. However, on account of his absence from duty, his services were terminated after holding a regular departmental inquiry. His statutory appeal against the said order of termination has also been dismissed by the Appellate Authority. Thereafter, the present petitioner, who is daughter of the deceased employee and sister of Kasif Ali Khan, has sought compassionate appointment in his place which is not permissible in terms of the Policy dated 21.11.2002 and in view of the law laid down in the above authoritative judgments. Even otherwise a period of more than 10 years have elapsed and at this stage, 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



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future. The object is to ensure the family to get over the financial crises when it faces at the time of the death of the sole breadwinner.

13. 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.

26.09.2024

*Kothiyal*

(NAMIT KUMAR)  
JUDGE

Whether Speaking/reasoned  
Whether Reportable

Yes/No  
Yes/No