

106 (4 cases)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

2025:PHHC:156032-DB



LPA-1675-2024 (O&M)
Date of Decision: 11.11.2025

Sanjeev Kumar ...Appellant

Vs.

State of Haryana and others ...Respondents

LPA-1925-2024 (O&M)
Date of Decision: 11.11.2025

Tarun Gagat ...Appellant

Vs.

State of Haryana and others ...Respondents

LPA-2720-2024 (O&M)
Date of Decision: 11.11.2025

Surender Pal ...Appellant

Vs.

State of Haryana and others ...Respondents

LPA-712-2025 (O&M)
Date of Decision: 11.11.2025

Devender Singh @ Davender Singh ...Appellant

Vs.

State of Haryana and others ...Respondents

**CORAM: HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA
HON'BLE MR. JUSTICE ROHIT KAPOOR**

Present: Mr. Rajiv Atma Ram, Sr. Advocate with
Ms. Shreya Kaushik, Advocate for the appellant(s)

in LPA-1675-2024.

Mr. Omkar Chauhan, Advocate for the appellant in LPA-712-2025.

Mr. D.S. Patwalia, Sr. Advocate with
Mr. Ayush Gupta, Advocate for the appellant
in LPA-2720- 2024.

Mr. Mangesh Goel, Advocate for the appellant
in LPA-1925-2024.

Mr. Sanjeev Kaushik, Addl. A.G. Haryana with
Mr. Saurabh Mohunta, Addl. A.G. Haryana.

Mr. Amit Jhanji, Sr. Advocate with
Mr. Shashank Shekhar Sharma, Advocate and
Mr. Nitesh Jhahria, Advocate and
Mr. Akhil Godara, Advocate for respondent No.5 in LPA-2720
of 2024 and LPA-712-2025.

Mr. R.K. Malik, Sr. Advocate with
Mr. Varunveer Chauhan, Advocate for respondents No.3 to 8
in LPA-1675-2024 & LPA-1925-2024.

ASHWANI KUMAR MISHRA, J. (Oral)

1. The above-said four appeals arise out of a common judgment of the learned Single Judge dated 07.05.2024, whereby, the writ petitions filed by the private respondents have been allowed and the benefit of appointment to higher post with retrospective effect granted in favour of the appellants, on compassionate ground, has been set aside.

2. All these four appeals have been heard together and are being disposed of by way of this common order. We are otherwise informed that there is observation made by the Hon'ble Supreme Court for expeditious disposal of these appeals, contained in **Special Leave to Appeal (Civil) No.1145-4 and 1145-5 of 2025**, decided on 02.05.2025.

3. This again is a classic case of misplaced sympathy being extended to compassionate appointees by granting them benefit of a higher

post after nearly 20 years of their having acquiesced to the initial appointment offered on a lower post. To what extent sympathies can be stretched notwithstanding the authoritative pronouncement of law on the nature of compassionate appointment by the Hon'ble Supreme Court in **Umesh Kumar Nagpal Vs. State of Haryana 1994 (4) SCC 138**, requires examination. The sympathy extended by the State is to such extent that the long standing seniority on the higher post is also dislodged.

4. In order to appreciate the controversy, certain basic facts are required to be noticed at the outset.

4.1 Appellants before us are compassionate appointees, namely (i) Sanjeev Kumar, (ii) Tarun Gagat, (iii) Surender Pal and (iv) Devender Singh @ Davender Singh.

4.2 So far as Surender Pal is concerned, his father was a Deputy Forest Ranger who died on 02.09.1982. At the time of death of the father of Surender Pal, he was allegedly a minor. He was offered compassionate appointment to the post of Forest Guard on 07.03.1996. This appointment was accepted by Surender Pal and he continued to work as such. Subsequent promotions were also granted to him based upon his initial appointment on the post of Forest Guard. However, on 15.07.2020, he made a representation stating that his initial appointment on the post of Forest Guard was contrary to the government policy and that he was entitled to be appointed on the post of Forester. This representation was considered and the Principal Chief Conservator of Forests vide a detailed reply made to the State Government, opposed the claim made in the

representation on the ground that compassionate appointment was not a substantive right and that once such appointment had been accepted, the principle of acquiescence would come into play and consequently a subsequent claim for retrospective appointment to an upgraded post was impermissible. However, this objection of the Principal Chief Conservator of Forests had not been accepted by the State Government which proceeded to retrospectively upgrade compassionate appointment offered to Surender Pal to the post of Forester from the post of Forest Guard. The order by which such benefit was accorded i.e. 30.09.2020, came to be challenged by private respondents/writ petitioners in a writ petition on the ground that the consequential seniority, determined long back, stood altered to their prejudice.

4.3 So far as appellant – Devender Singh @ Davender Singh, is concerned, his father was also a Deputy Forest Ranger, who died in harness on 24.09.1988. Based upon an application made by Devender Singh @ Davender Singh, he was offered compassionate appointment on the post of Forest Guard on 25.02.1992. Devender Singh @ Davender Singh then made a representation stating that he should have been appointed as Forester. This claim was accepted vide order dated 16.05.1996. He was subsequently promoted as Deputy Forest Ranger on 16.01.2013 and Forest Ranger on 10.06.2024. By order dated 30.09.2020, compassionate appointment of Devender Singh @ Davender Singh, was up-graded to the post of Deputy Forest Ranger w.e.f. 25.02.1992 with all consequential benefits

including subsequent promotion, which was challenged by the private respondents/writ petitioners in writ petition on similar ground i.e. unsettling of long standing seniority and also on the ground that once initial appointment offered on compassionate ground was accepted, appellant – Devender Singh @ Davender Singh, had acquiesced to the appointment and a subsequent prayer for up-gradation after more than two decades was impermissible.

4.4 Similarly, the father of appellant – Sanjeev Kumar died on 17.07.1992. He was offered a compassionate appointment to the post of Forest Guard on 07.03.1996. In the normal course of his working, he acquired promotion to the post of Forester on 01.08.2017. However, on a representation made nearly after two decades, the compassionate appointment on the post of Forest Guard, had been upgraded to the post of Forester w.e.f. 07.03.1996, vide order dated 08.01.2021, which was impugned before the learned Single Judge by the private respondents/ writ petitioners.

4.5 Similarly, father of appellant – Tarun Gagat died on 22.02.1999. He was offered compassionate appointment on the post of Forest Guard on 02.06.1999. On the strength of his appointment on compassionate ground, Tarun Gagat secured promotion to the post of Deputy Forest Ranger on 03.03.2019. He made a subsequent representation for upgrading his initial appointment, which was allowed vide impugned order dated 01.09.2020, whereby the compassionate appointment offered to

Tarun Gagat on 22.02.1999, was upgraded to the post of Forester along with all consequential benefits. These orders came to be assailed before the learned Single Judge.

5. The learned Single Judge has gone into the facts of the case extensively and has observed that offering of compassionate appointment is not a matter of right but is a concession granted by the employer only to tide over the sudden difficulty faced by the family due to death of the sole bread earner. Such appointments since are in the nature of concession as such no vested right is created in favour of such employee to claim appointment to a higher post.

6. It was further held that once compassionate appointment was granted on the post of Forest Guard, to all four appellants and they acquiesced to it by accepting such appointment without any demur as such the appellants would be estopped from making representation or seeking retrospective up-gradation on a higher post.

7. The learned Single Judge has also observed that there is no principle of law on which the claim of appellants for retrospective up-gradation after 20 years could be allowed so as to unsettle the long standing seniority on the higher posts. The learned Single Judge has also made observations that the manner in which such relief has been granted to the appellants required a deeper probe into the role of the Officers who have granted such benefit.

8. Before proceeding further, it would be worth referring to the government instructions dated 03.11.1988, which provided for grant of compassionate appointment and was the basis of acceptance of claim of the appellants by the State Government. The government order has already been

reproduced by the learned Single Judge, which for the sake of convenience, is extracted hereinafter:-

“No.16/21/88-6 G.S.II

From

Chief Secretary, Government of Haryana.

To

1. All the Head of Departments in Haryana.

2. Commission, Ambala and Hisar Division.

3. All Deputy Commissioner and Sub Divisional Officer (Civil)

4. Registrar Punjab and Haryana High Court, Chandigarh

Dated 03.11.1988

Subject:- To provide jobs and other facilities to the families of Government servants who died during the service period.

Sir,

I have been directed to bring your attention to the above subject to Haryana Government Circular No.16/21/88-6 G.S.II dated 09.09.1985 and to say that the Government has been receiving many such cases where the family of the deceased makes a request after a long time to provide jobs and other facilities. After considering this matter, it has been decided that in future in those cases, employment and financial assistance will not be considered. Where such prayer will not be received from the family of the deceased within three years of his death. In cases where the person concerned, to whom the facility of employment is to be given, is still minor, the prayer regarding this should also reach the Government within three of the death of the employee for consideration/decision. This decision will be applicable from the date of issue of this letter and the cases which

already been received will be dealt with as per the existing instructions.

Apart from this, it has also been decided that in future only those family members of the deceased will be considered for recruitment of category-II posts where the person concerned has technical qualifications M.B.B.S., B.E., B.Tech., B.B.S etc. and he can be posted only on Category-II posts or above. In the rest of the cases, no consideration should be given to the appointment of gazetted posts and considering the eligibility of the applicant, the proposal should be sent to the government to fill only category-III and 4 posts.

Please strictly follow these orders and acknowledgment of this letter should also be sent to the government.

Sd/-

Deputy Secretary, Protocol

For, Chief Secretary, Haryana Government.”

9. The government instructions dated 03.11.1988 records that ‘in future belated request for employment and financial assistance will not be considered but pending requests were to be examined. Consideration for appointment against Category-II posts was made permissible in certain exigency. The policy appears to have been drawn as per the spirit of law relating to grant of compassionate appointment inasmuch as the position which stands settled by now, goes counter to such provisions. It is now well settled that compassionate appointment can be offered only in cases of financial stringencies and when such claims are promptly lodged. We may refer to the judgment of the Hon’ble Supreme Court in **Canara Bank vs. Ajithkumar G.K. 2025 SCC OnLine SC 290**, wherein the Court has made the following observations in paragraph 45, which reads as under:-

“45. The ratio decidendi of all these decisions have to be read in harmony to achieve the noble goal of giving succour to the dependants of the employee dying-in-harness, who are genuinely in need, and not with the aim of giving them a post for another post. One has to remember in this connection the caution sounded in Umesh Kumar Nagpal (supra) that as against the destitute family of the deceased there are millions of other families which are equally, if not more, destitute.”

10. The government instructions dated 03.11.1988 have been dealt with by the learned Single Judge in para No.26 and 27 of the impugned judgment, which reads as under:-

“26. A bare perusal of the above policy would show that it was only mentioned that where the technical qualifications have been obtained by the candidate seeking compassionate appointment like M.B.B.S., B.E., B. Tech., B.B.S etc, they should be given a technical post commensurate to their qualifications. With regard to the rest of the cases, it was mentioned that the consideration should only be given for filling up Class-III and Class-IV posts.

27. In the present case, the private respondents had already been given Class-III post of Forest Guard. Once, Class-III post, which was the entitlement under the Instructions dated 03.11.1988 had already been given to the private respondents, the private respondents cannot agitate that they were not given benefit for which, they were entitled for under the instructions, which were applicable at the time of death of the employee concerned for the grant of compassionate appointment.”

11. It is not an issue that the post of Forest Guard is a Class-III post. In terms of the applicable policy, compassionate appointment could have been offered only on Class-III or Class-IV post. Offering of higher appointment on a technical post was an exception and was intended to deal

with such applicants who had qualifications like MBBS, B.E., B.Tech. etc. and the apparent idea was to better utilize the services of such technically trained manpower while offering them compassionate appointments.

12. The policy contained in the notification dated 03.11.1988, does not provide for grant of higher appointment as a matter of routine. The appointment offered to the appellants on the post of Forest Guard was, therefore, an appropriate appointment which could have been offered at that point of time. More so, all the appellants accepted the appointment and also joined pursuant to it. Once that was done almost two decades ago, we fail to understand as to why the subsequent representations for retrospective up-gradation on compassionate appointment could be claimed by the appellants.

13. On the aspect relating to entitlement of a person seeking compassionate appointment for up-gradation has been crystallized long back by the Hon'ble Supreme Court in the case of **State of Rajasthan vs. Shri Umrao Singh 1994 (6) SCC 560**, wherein previous judgment arising out of **State of Haryana vs. Naresh Kumar Bali (1994) 4 SCC 448**, was referred to and relied upon. The Hon'ble Supreme Court in Umrao Singh case (supra) referred to the recruitment rules framed by the State of Haryana for grant of compassionate appointment and opined that once the candidate accepted an appointment of lower post, his right to be considered on compassionate ground is consummated. No question of further consideration for compassionate appointment would ever arise. The Court held so, authoritatively, in para No.8 of the judgment, which reads as under:-

“8. Admittedly the respondent's father died in harness while working as Sub-Inspector, CID (Special Branch) on 16-3-1988. The respondent filed an application on 8-4-1988 for his appointment on compassionate ground as Sub-Inspector or LDC

according to the availability of vacancy. On a consideration of his plea, he was appointed to the post of LDC by order dated 14-12-1989. He accepted the appointment as LDC. Therefore, the right to be considered for the appointment on compassionate ground was consummated. No further consideration on compassionate ground would ever arise. Otherwise, it would be a case of "endless compassion". Eligibility to be appointed as Sub-Inspector of Police is one thing, the process of selection is yet another thing. Merely because of the so-called eligibility, the learned Single Judge of the High Court was persuaded to the view that direction be issued under proviso to Rule 5 of Rules which has no application to the facts of this case."

14. The Judgment in Umrao Singh case (supra) has been followed by the learned Single Judge of this Court in **Jang Bahadur Singh vs. State of Punjab and others 2013 SCC OnLine P & H 25**, , as also by the Division Bench of this Court in **Prem Pal Sharma vs. State of Haryana 2008 (4) SCT 483**. In Prem Lal Sharma case (supra) reliance has been placed on the judgment of the Hon'ble Supreme Court in Umesh Kumar Nagpal (supra).

15. In view of the settled proposition in law as per which a subsequent claim for up-gradation would not be maintainable once the compassionate appointee accepts the appointment on a lower post. We fail to understand as to how a representation could be made after nearly two decades of accepting the compassionate appointment on a lower post. In our opinion, the appointment was otherwise not on a lower post but was commensurate with the appointment to which the appellants were entitled to.

16. Mr. Rajiv Atma Ram, Senior Advocate, has placed reliance on the judgment of Full Bench of this Court in **Krishna Kumari v. State of Haryana and others 2012 (2) SCT 736**, judgment of the Hon'ble Supreme

Court in the case of Surya Kant Kadam vs. State of Karnataka 2002 (9) SCC 445, as also the judgment of the Division Bench of this Court in Gulbahar vs. State of Punjab 2002 (2) SCT 124, as well as the judgment of the learned Single Judge in certain cases, to contend that up-gradation of compassionate appointee would be permissible where it is shown that any discrimination had been meted out by the employer while extending such benefit. Learned Senior Advocate also submits that the appellants had referred to the case of Sushil Kumar and Gopal Krishan to submit that once these persons were granted compassionate appointment on the post of Forester, the subsequent offering of appointment on the post of Forest Guard, was impermissible and, therefore, the State was well within its rights to rectify its mistake by appropriately upgrading the post to which the appellants were entitled to. The submissions raised on behalf of the appellants cannot be accepted either in law or on facts.

17. We have already noticed that the compassionate appointment was once granted to the appellants on the post of Forest Guard and they accepted such appointment, it was clearly not open for these persons to subsequently come up with a case of up-gradation. The basic principles which have to be borne in mind are '*acquiescence*' and '*estoppel*'. It has to be clearly understood that compassionate appointment is not a legally vested right and is merely in the nature of a concession to the family members in distress due to untimely death of the sole bread earner. Grant of such benefit is otherwise intended to deal with and immediacy which has been fallen on the family in distress. The concession which persuades the State to offer compassionate appointment is, therefore, directly linked to the immediacy of cause as also the stringencies/destitution which provides the justification for

offering such appointment. It is for this reason that way back in 1994 in Umesh Kumar Nagpal case (supra), the Hon'ble Supreme Court clarified that such appointment cannot be claimed after inordinate delay nor such appointment can be claimed as a matter of right on any basis. The law in that regard has been specifically reflected in a plethora of judgments which we not need to refer to as it would require unnecessary burden on our opinion.

18. So far as the case of Surya Kant Kadam case (supra) is concerned, the import of the judgment has been dealt with by the learned Single Judge in paragraph No.23 of the impugned judgment, which reads as under:-

“23. With regard to the claim in Surya Kant Kadam (supra) , a claim was raised that the appellant therein was given compassionate appointment on the post of clerk even though, he had applied for the post of Sub-Inspector of Excise whereas, certain other persons who were also appointed on the said post on compassionate ground and appointment of whom were later in date in comparison to the appellant therein were appointed on the said post of sub Inspector ignoring the claim of the appellant therein, who had a better right than them. It was under these circumstances, Hon'ble Supreme Court of India has held that once, appellant therein had a better claim on the post which was offered to other similarly situated employees who were also appointed on compassionate ground and who were junior to appellant, in light of which, a direction was given to appoint appellant therein on the post of Sub Inspector, Excise. However the same was also stated to be granted prospectively. Whereas, in the present case, facts are entirely different. In the present case, that challenge to the appointment of private respondents is from the regularly appointed employees and in terms of the settled principle of law noted hereinbefore it cannot be said that

the private respondents had a better claim in comparison to that of regularly selected employees.”

19. Similarly, the judgment in the case of **Civil Appeal No.3311-1990 titled as Kamala Gaiind vs. State of Punjab and others decided on 21.07.1990**, has also been dealt with by the learned Single Judge in paragraphs No.21 and 22, which reads as under:-

*“21. In the case of **Kamala Gaiind (supra)**, nothing has come on record that the son of the appellant therein had accepted the appointment, which was being offered to him and upon non-grant of the entitled post, petitioner therein challenged the said act of the State before the Hon’ble Court forthwith, which claim was then accepted keeping in view the fact that case was made out. **Kamala Gaiind (supra)** is not a case of upgradation of post after acceptance of a particular post on compassionate ground hence, cannot be made applicable in the facts and circumstances of this case.*

22. In the present case, in case, the private respondents were not happy with the offer of the appointment as given to them initially on compassionate ground as Forest Guard, they should not have accepted the said offer and should have agitated the same as done in the case of Kamala Gaiind but once, the private respondents accepted the offer, no benefit of appointment on a higher post can be given to them and that too after a period of more than two decades of working on a lower post as given to them initially on compassionate ground.”

20. We find ourselves to be entirely in agreement with the interpretation made by the learned Single Judge while interpreting and distinguishing the judgment of the Hon’ble Supreme Court in the case of Surya Kant Kadam case (supra). We may also take note of the objection recorded by the Chief Conservator of Forest while dealing with the case of

Devender Singh @ Davender Singh. The Principal Chief Conservator of Forests has observed as under:-

“The relevant facts relating to this case are that Sh. Devender Singh, Dy. Ranger had submitted an application stating that upon demise of his father late Sh. Shyam Singh who was working as Dy. Ranger (date of death 24.12.1988), he was initially appointed as Forest Guard on compassionate ground. Later on, the said appointment was changed to the post of Forester vide office order No. 46 dated 6.05.1996 which was subsequently again modified and he was posted as Forester on compassionate ground with effect from 25.02.1992 (vide order No. 53 dated 26.05.2019). The applicant has now taken a plea that since he was holding appropriate educational qualification for the post of Dy. Ranger at the time of death of his father; he should have been given compassionate appointment on the post of Dy. Ranger in accordance with the provision of Compassionate Policy prevailing at that time (notification dated 3.11.1988).

The application requires to be filed for the following reasons:-

(i) Upon demise of his father late Sh. Shyam Singh. Dy. Ranger on 24.12.1988, Smt. Murti Devi W/o deceased employee had submitted an application to appoint her son Sh. Devender Singh as Dy. Ranger on compassionate ground. Sh. Devender Singh was however appointed as Forest Guard on compassionate ground vide order dated 25.02. 1992. Smt. Murti Devi had again submitted an appeal requesting that Sh. Devender Singh should be appointed on the post of Forester and subsequently taking cognizance of this application. Sh. Devender Singh was appointed as Forester vide office order No. 46 dated 16.05.1996.

(ii) The applicant Sh. Devender Singh had again submitted an application dated 12.09.2008 requesting therein that his appointment to the post of the Forester should be done from the date on which he was appointed as Forest Guard on

compassionate ground. After examination of the said appeal Sh. Devender Singh was given appointment on the post of Forester from 25.02.1992, the date on which he was appointed as Forest Guard. Therefore, required relief i.e. compassionate appointment one step below than the post hold by the deceased employee has already been granted to Sh. Devender Singh.

(iii) In accordance with the provisions of compassionate appointment as contained in notification No. 9254-4GS-70/32230 dated 22 December, 1970 and notification No. 3442-3GSII-71/19169 dated 13th July, 1971, the Government has made it very clear that it is not the intention to provide employment to the dependents of deceased government employees as a matter of course, instead each individual case should be examined carefully and employment, which should be confined to Class III and Class IV posts, should be provided only if it is justified in order to avoid exceptional hardship and not otherwise."

(iv) Though the Government policy dated 3.11.1988 speaks about giving compassionate appointment on Class III and Class IV posts on the basis of eligibility of the dependent, later on the Government, in the light of the decision of the Hon'ble Supreme Court dated 04.05.1994 in S.L.P No. 10505 of 1993, Umesh Kumar Nagpal Versus State of Haryana and others had modified the Ex-gratia Scheme vide notification dated 8th May, 1995 and decided that compassionate appointment being offered shall be at least one step lower than of the deceased employee except in cases where the deceased employee was working at the lowest level in the Government.

(v) It is pertinent to mention here that the Hon'ble Supreme Court in "Umesh Kumar Nagpal Versus State of Haryana and others held as under:-

"If the dependant 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.

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."

(vi) It has been the consistent policy of the Government of Haryana since notification dated 08-05-1995 that compassionate employment, which has been confined to Class-III and IV posts, is being offered at least one step lower than that of the post held by deceased employee except in cases where the deceased employee was working at the lower level.

(vii) It has been consistent stand of the government since 2003, in the rules relating to compassionate assistance to the dependents of deceased government employees that "Once a post has, been offered to the dependent of a deceased Government employee, no request for change of post shall be entertained with respect to any other post or department under any circumstances. In case the offer is not acceptable to him/her, no further claim shall be entertained.

(viii) It is further pertinent to mention here that the Government had done away with the provision of compassionate appointment since 2006 and it is only now i.e. in Haryana Civil Services (Compassionate Financial Assistance or Appointment) Rules, 2019 that the provision of compassionate appointment has been restarted.. Even in these Rules, it is clearly mentioned in rule no. 13 that:

13a "Once an appointment has been offered to the dependent of a deceased or missing Government employee, no request for change of post shall be entertained with respect to any other post or department

under any circumstances. In case the offer is not acceptable to him, no further claim shall be entertained.

13b When a person has been appointed under these rules to a particular post, the set of circumstances, which led to such compassionate appointment, shall be deemed to have ceased to exist on such appointment.

Therefore –

(i) he/she should strive his/her career like his/her colleagues for future advancement and any request for appointment to any higher post on considerations of compassionate to be rejected;"

21. We have perused the order of the State Government, whereby the benefit of up-gradation on the post of Forester has been granted to the appellants with retrospective effect vide order dated 30.09.2020. We find that none of the points highlighted by the Principal Chief Conservator of Forests have either been referred to or dealt with by the government. We are rather amazed by the mode and manner in which claim of the appellants came to be allowed by the State Government. We, therefore, are of the view that the learned Single Judge is absolutely justified in making the following comments in para No.33 and 34 of the impugned judgment which reads as under:-

“33. Further, certain comments needs to be made against the method in which the department granted the benefit of compassionate appointment on a higher post to the private respondents with retrospective effect after a period of more than two decades. The department is supposed to know the law as similar relief is being agitated by the State tooth and nail in number of cases where the same relief claimed of higher post is being objected by the State. On one hand relief being claimed for compassionate appointment on a higher post is being

*objected by the State and on the other hand, the similar relief is being accepted by the respondent-State disregarding settled law and its own position in similar cases i.e. **Naresh Kumar Bali (supra)**. The private respondents have been given benefit of compassionate appointment on a higher post on an application made by them after two decades of their initial appointment on a compassionate ground upon which right has been consummated since long. It is being argued that the said benefit has been accepted/approved upto the rank of Additional Chief Secretary, Department of Forest and Wild Life. Nothing has come on record as to what consideration was given by the said authority while granting the benefit of appointment on a higher post to the private respondents after a period of 02 decades and that too ignoring the settled principle of law as noticed hereinbefore the garb of which State has taken in order to reject such similar claims.*

*34. It may be noticed that State of Haryana had approached the Hon'ble Supreme Court of India when a similar relief was granted by this Court in the case of **Naresh kumar Bali (supra)** in the year 1994. Taking a decision contrary to their own stand shows that the decision taken was not bonafide but to extend certain undue benefits to respondents No. 3 and 4. Further, nothing has come on record as to why, the recommendations of the Chief Conservators of the Forests, who had opposed the grant of relief to the private respondents were ignored so as to grant the benefit to the private respondents. The officer(s), who has/have sanctioned the impugned orders dated 30.09.2020 (Annexure P/4) and 30.09.2020 (Annexure P/5) in CWP- 18530-2020 and order dated 08.01.2021 (Annexure P/1) and dated 01.09.2020 (Annexure P/3) as well as order dated 18.02.2021 (Annexure P/2) and dated 11.12.2020 (Annexure P/4) in CWP- 11660-2021 has to be made accountable for passing such orders, which not only create purposeless litigation but also create a situation where entire seniority is reframed to the prejudice of the employees who were otherwise senior after a*

period of 02 decades by an arbitrary action of an officer, the motivation of whom happens to be questionable. The said officer(s) has/have to be made responsible for passing such kind of orders. Keeping in view the same copy of the orders impugned through the present petitions be sent to the Chief Secretary, Government of Haryana to initiate appropriate action against the said officer concerned and to seek his/her explanation and find out as to under what circumstances, such arbitrary and illegal orders disregarding settled law so as to give undue benefits to the employees in a pick and choose manner and that too at the cost of other employees are being passed. The outcome of the said proceedings be also brought to the notice of this Court within a period of three months from the date of receipt of copy of this order.”

22. In our view, the manner in which compassionate appointment was offered to the appellants on the post of Forest Guard way back nearly two decades back is up-graded by the order impugned, speaks volumes about the arbitrary exercise of powers by the State in extending such benefit. The benefit granted is not only in the teeth of law but completely overlooks the comments highlighted by the Principal Chief Conservator of Forests, which are neither dealt with nor any attempt has been made to provide justification for grant of such benefit. Merely stating that certain others have been granted benefit of compassionate appointment on the post of Forester would not justify the action of the State of retrospective up-gradation of the post on which appointments were offered to the appellants. Merely because in some stray incidents a higher appointment was offered would not constitute basis for raising such claim, after decades, as it would result in complete chaos in the cadre of employees. The grant of relief by the State Government to the appellants also has a direct consequence of unsettling the long standing

seniority. Viewed from any aspect, we find the claim of the appellants to be devoid of any substance. Moreover, the basis of extraneous consideration having intervened on account of which the orders were passed by the state cannot be entirely ruled out.

23. The manner in which such relief has, therefore, been granted by the State Government explicitly requires disapproval of this Court. We are in complete agreement with the view taken by the learned Single Judge in allowing the writ petition filed by the private respondents whose seniority was to be effected by the impugned action of the State. Before concluding, we may take note of the submissions of Mr. D.S. Patwalia, Senior Advocate that the grant of benefit by the State may only be interfered with to the extent it alters the settled seniority but benefits of compassionate appointment on up-graded post be protected notionally.

24. We are afraid that acceptance of such submission would result in an anomalous situation inconsistent with the settled principles of law. Once, we have observed that compassionate appointment is only a concession and the grant of appointment on the post of Forest Guard to the appellants was appropriate and was acquiesced by the appellants, any subsequent attempt to seek benefit of higher post would be impermissible. In such circumstances, notional benefits also cannot be allowed to be extended inasmuch as it would result in grant of service benefits over and above what is entitled to by the appellants. It would otherwise create unnecessary heartburn in similarly placed employees who would stand to lose and would result in endless bounds of litigation flooding the Courts of law. We are of the view that quietus has to be given to such claims which are wholly unfounded and appears to us to be frivolous at the best.

25. The appeals, therefore, are found to be without any substance and are accordingly dismissed. We reiterate the observations of the learned Single Judge that the Chief Secretary, State of Haryana, be directed to initiate an inquiry to look into the manner in which benefits were granted to the appellants on retrospective up-gradation of compassionate ground overlooking the specific objections of the Principal Chief Conservator of Forests and to take the matter to its logical end. It is, however, provided that the initial appointment on Forest Guard in favour of the appellants or their subsequent promotions based upon such initial appointment are adequately protected and shall not be reopened on the ground of any observations made in this order.

26. All pending misc. application(s), if any, also stand disposed of.

(ASHWANI KUMAR MISHRA)
JUDGE

(ROHIT KAPOOR)
JUDGE

11.11.2025
rajesh

1. Whether speaking/reasoned?

:

Yes/No
2. Whether reportable?

:

Yes/No