

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

Present:-

The Hon'ble Justice Madhuresh Prasad

And

The Hon'ble Justice Prasenjit Biswas

F.M.A 2 of 2025

Sri Sachin Lall

Vs.

Union of India and Others

For the Appellant

:Mr. Sardar Amjad Ali, Ld. Sr. Adv.
Mr. Chira Ranjan Kanjilal, Adv.,
Mr. Puranjan Pal, Adv.,
Mr. Samir Ghosh, Adv.,
Mr. Abdul Wazid, Adv.

For the Appellant U.O.I./
Respondent No. 1

Mr. Udayan Chakraborty, Sr. Adv.,
Mrs. Indrani Chakraborty, Adv.,
Ms, Shreya Sinha, Adv.

For the Mint

Mr. Arup Nath Bhattacharyya, Adv.,
Mr. Hemanta Kr. Das, Adv.,
Mr. Arya Bhattacharyya, Adv.,
Mr. Snehasish Dey, Adv.

Judgment on

: January 14, 2026.

Madhuresh Prasad, J

1. The appellant was the writ petitioner before the learned Single Judge.

The writ petition was filed seeking relief of compassionate appointment upon demise of the writ petitioner's father namely Jittu Lall, who died in harness. The writ petition was dismissed on

05.10.2024. This order of the Writ Court is put to challenge in the present appeal.

2. Briefly stating the facts which are not in dispute are that the petitioner's father died while in harness on 13.12.2004, while working in the Department of I.G. Mint, Alipore. His wife (petitioner's mother) applied for petitioner's compassionate appointment. The claim was rejected by a communication dated 18.02.2014. The claim was sought to be revived by the petitioner's mother by issuing a letter dated 10.10.2017. The authorities again by a communication dated 31.08.2022, reiterated their stand in the earlier rejection order dated 18.02.2014; and once again regretted the petitioner's claim for compassionate appointment.
3. The Writ Court found that the writ petition filed in 2023, nearly a decade after the first rejection dated 18.02.2014, and nearly two decades after the petitioner's father died (13.12.2004), did not merit any consideration in view of the long unexplained delay. The learned Single Judge considered the settled legal position that object of compassionate appointment is to enable the family of a deceased Government employee to tide over the sudden crisis due to sudden loss of the bread earner. The compassionate appointment is offered as an exception to the rule with such social objective; and can be availed only under such circumstance when the family of a Government employee is rendered destitute due to the sudden loss. The concept cannot be stretched so as to make a claim for compassionate

appointment as a matter of right, at any time in future, long after the crisis is over.

4. The learned Single Judge also found that the writ petitioner's mother had applied for payment of lump sum amount in lieu of compassionate appointment on 30.03.2021. Therefore, on this ground also the learned Single Judge was of the view that the petitioner's mother had consciously pursued that option and therefore, was disentitled to raise a belated claim for appointment on compassionate ground.
5. Mr. Ali, learned Senior Advocate representing the writ petitioner submits that at the time of his demise, the petitioner's father was serving under the Department of I.G. Mint, Alipore. Rejection of the petitioner's claim for compassionate appointment by letter dated 18.02.2014, is based on a scheme for grant of compensatory lump sum allowance in lieu of compassionate appointment introduced by a different entity, namely Security Printing and Minting Corporation of India Limited (SPMCIL for short). This entity came into existence later, in the year 2006, after the Cabinet decision to corporatize the Mint. Scheme/decision of such an entity cannot govern the petitioner's claim. The father of the petitioner never served under the SPMICL and petitioner's claim cannot be considered by SPMICL or by any scheme framed/ implemented after demise of the petitioner's father by the SPMICL.
6. It is also submitted that the writ petitioner never applied for lump sum in lieu of compassionate appointment. It is submitted by the

learned Advocate that the writ petitioner did not write the letter dated 30.03.2021.

7. The third submission advanced by the learned Senior Advocate is regarding compassionate appointment by SPMICL to 9 other, similarly situated as the petitioner. In this connection he has placed reliance on the table (at page 47 of the paper book), containing Draft Seniority List of Application for Compassionate Appointment, wherein the names of 9 persons have been enlisted. He further submits that whereas these 9 persons were extended the benefit of compassionate appointment, claim of the writ petitioner was rejected, which fact is apparent from a reading of the averment made in paragraph 10 of the instruction on affidavit filed by the respondent in the Writ Court.
8. The learned Advocate for the respondents, on the other hand has submitted that the Writ Court has rightly rejected the petitioner's claim for compassionate appointment raised decades after the date of death of the employee (petitioner's father) in harness; and nearly 10 years after rejection of the writ petitioner's claim by the authority by their order dated 18.02.2014. It is also submitted that the petitioner never assailed the rejection order/s.
9. He submits that the Writ Court, therefore, has rightly considered the petitioner's claim to be suffering with inordinate and unexplained delay; with reference to the settled legal position regarding compassionate appointment being available to tide over a crisis due to sudden loss of the breadearner. The consideration, therefore, requires no interference by this Court.

10. We have considered the rival submission, gone through the records and judgment of the learned Single Judge. At the very outset we consider it apposite to take note of recent judgment of the Apex Court in the case of ***State of West Bengal V. Debabrata Tiwari & Others*** reported in ***(2025) 5 SCC 712***, wherein the Apex Court has considered several earlier judgments and reiterated the law in this regard which mandates that compassionate appointment being in exception to the rule can be claimed only under the terms and conditions under the scheme providing for grant of compassionate appointment; and in furtherance of its objectives. The primary objective of compassionate appointment being to enable the family of the deceased employee to tide over the sudden crisis. The Apex Court in paragraph 32 and 33 in case of ***Debabrata Tiwari & Others*** (*supra*) has held amongst others that:

“32. On consideration of the aforesaid decisions of this Court, the following principles emerge:

32.1. 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.

32.2. 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.

32.3. 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.

32.4. That compassionate appointment should be provided immediately to redeem the family in distress. It is improper to keep such a case pending for years.

32.5. 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.

33. 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 breadearner 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 breadwinner, 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 appointment 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”

11. We find that the petitioner’s father died in harness on 13.12.2004, and his mother applied for his compassionate appointment on 11.01.2005. The claim was rejected on 18.02.2014, under intimation to the petitioner and his mother. The fact of rejection dated 18.02.2014, is acknowledged by the petitioner in paragraph 9 of the writ petition. However, he has tried to explain the delay in filing the writ petition by stating in paragraph 10 of the writ petition that authority repeatedly assured the petitioner and his mother that compassionate appointment would be granted. Therefore, petitioner did not file the writ petition earlier. It is only when the authorities again rejected the petitioner’s claim for compassionate appointment by the communication dated 31.08.2022, then the petitioner filed the present writ petition.
12. We find no substance in such submission. The petitioner’s claim was rejected and admittedly communicated to him on 18.02.2014, merely because he has subsequently reiterated such claim thereafter, cannot be made a ground to meet the delay.
13. Making of application(s)/representation(s) subsequent to rejection of petitioner’s claim on 18.02.2014, or passing of any subsequent order would not give rise to a fresh/new cause of action. The issue of limitation or delay and laches is required to be considered with reference to the earlier rejection, in this case being rejection order

dated 18.02.2014. Our conclusion is fortified by decision of the Apex Court in the case of **Union of India & Ors. Vs. M. K. Sarkar**, reported in **(2010) 2 SCC 59**, wherein it was held:

“15. When a belated representation in regard to a “stale” or “dead” issue/dispute is considered and decided, in compliance with a direction by the court/tribunal to do so, the date of such decision cannot be considered as furnishing a fresh cause of action for reviving the “dead” issue or time-barred dispute. The issue of limitation or delay and laches should be considered with reference to the original cause of action and not with reference to the date on which an order is passed in compliance with a court's direction. Neither a court's direction to consider a representation issued without examining the merits, nor a decision given in compliance with such direction, will extend the limitation, or erase the delay and laches.”

14. We further find that the petitioner never assailed the rejection order(s) dated 18.02.2014 and the second rejection order dated 31.08.2022. Even in the present writ proceeding he choose not to challenge the two rejection orders.

15. As such in light of the decision in the case of **Debabrata Tiwari & Ors.** (supra) and **M. K. Sarkar** (supra), the petitioner cannot be permitted to agitate a claim for compassionate appointment in respect of his father who died in harness on 13.12.2004, by filing a writ petition in the year 2023. We, therefore, have no hesitation in holding that the writ petition is barred by delay and laches.

16. Insofar as the submission regarding the petitioner's claim being rejected under a scheme which came into operation after demise of

the petitioner's father, we are of the view that the petitioner cannot raise any such claim today, since he chose never assail the rejection order dated 18.02.2014 or the subsequent rejection order dated 31.08.2022, both relying upon the scheme issued by the SPMCIL. If the petitioner was aggrieved by such rejection he was required to diligently put the same to challenge which he has chosen not to do. There is no prayer in the writ petition challenging the two rejection orders dated 18.02.2014 and 31.08.2022. It is a different matter that today, a challenge to the two rejection orders would not be sustainable as being barred by delay and laches in view of the above two decisions of the Apex Court in the case ***Debabrata Tiwari & Ors.*** (supra) and ***M. K. Sarkar*** (supra).

17. Insofar as the third ground being substantially an allegation that petitioner was subjected to discriminatory treatment, we find that there is no factual foundation for making such allegation. The table relied upon contains a draft seniority list only of applications. The same does not manifest grant of compassionate appointment to anyone. There is nothing on record to show that at any point of time compassionate appointment was granted to any one of those 9 candidates. For lack of factual foundation in this regard the plea of discrimination is also untenable.

18. In view of the above consideration we find no infirmity in the decision of the learned Single Judge dismissing the writ petitioner's writ petition, seeking relief of compassionate appointment.

19. The appeal is dismissed.

20. Urgent Photostat certified copy of this judgment, if applied for, be supplied to the parties, expeditiously after complying with all necessary legal formalities.

(Madhuresh Prasad, J.)

I agree.

(Prasenjit Biswas, J.)