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

CWP-19457-2007

Date of decision: 03.02.2026

PURAN**....Petitioner**

Versus

HARYANA URBAN DEVELOPMENT AUTHORITY & ORS.**....Respondents****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. Karamjeet Singh, Advocate for
Mr. Amar Vivek, Advocate
for the petitioner.

HARPREET SINGH BRAR, J (Oral):

1. The present civil writ petition has been filed under Article 226 of the Constitution of India for issuance of a writ in the nature of certiorari for setting aside impugned order dated 19.12.2005(Annexure P-9) whereby the claims for regularisation of the services of the deceased father of the petitioner namely Bhagwan Dass and grant of compassionate appointment to the petitioner were rejected. A prayer is also made for issuance of a writ of mandamus is sought directing the respondents to treat the deceased as deemed to have been regularized and further grant the petitioner compassionate appointment in lieu of the same.

2. Learned counsel for the petitioner, *inter alia*, contends that the late father of the petitioner-Bhagwan Dass was engaged by the respondents on TMR/Daily Wage basis in April 1994 and had rendered continuous and uninterrupted service till his death in harness i.e. on 24.05.2002. However,



after completing the requisite 240 days, the services of the deceased were illegally terminated in January 1995. Subsequently, pursuant to a binding settlement dated 31.05.1995 under Section 12(3) of the Industrial Disputes Act, 1947, the deceased was reinstated with continuity of service, thereby protecting his service tenure for all intents and purposes. It is further contended that the deceased rendered over eight years of continuous service with the respondents for over eight years, making him eligible for regularization under the applicable policy and the settled law.

3. Learned counsel argues that as a response to the representation dated 28.04.1997 served by the deceased, the Sub Divisional Officer, Sub Division No.8, HUDA, Gurgaon recommended his case for regularisation vide communication dated 21.05.1997 (Annexure P-1 colly). In spite of this, the respondents unjustly denied the said benefit to the deceased. The case of the petitioner is also covered by the judgment rendered by a Division Bench of the Allahabad High Court in ***State of U.P. through Prin.Secy, Agriculture and 3 others Vs. Kuldeep Thakur 2013 (3) All LJ 97*** wherein the petitioner was ordered to be appointed on compassionate ground after taking into consideration the fact that the case of the deceased father of the petitioner for regularization was under process and he had unfortunately died before he could be regularized. The deceased passed away in harness on 24.05.2002, leaving behind the petitioner and other dependents in penury. The mother of the petitioner is physically disabled and thus, the petitioner bears the sole responsibility to provide for the family. However, the case of the petitioner for compassionate appointment was rejected solely on the ground that his father was not a regularised



employee, while similarly situated persons have been considered for the same concession.

4. *Per contra*, learned counsel for the respondents submits that admittedly, the deceased was engaged on daily wage basis in April, 1994 and was not eligible for regularization under the Haryana Government Instruction dated 07.03.1996 and 18.03.1996. The said Instructions provide for grant of regularization to those daily wage employees who had completed three years service as on 31.01.1996, having worked for at least 240 days in a year where the break in service is not be more than 30 days at a time in a year. Since the petitioner had not even completed the first condition i.e. three years service as on 31.01.1996, he was not considered for regularisation and neither can he be deemed as such at this stage. Further, the policy dated 18.11.2005 (Annexure R-1) issued by the Government of Haryana regarding ex gratia financial assistant or appointment clearly states that these concessions would only be available to employees who were appointed on regular basis and “*not daily wages, casual, apprentice, work charged, adhoc, contractual or re-employment basis.*” Since the deceased was not a regular employee, the petitioner cannot be considered for compassionate appointment.

5. Having heard learned counsel for the parties and perused the record with their able assistance, it transpires that the deceased father of the petitioner was working on daily wages and not on a regular post. It is settled law that the recruitment of the dependent of the deceased employee who was working on daily wages, cannot be granted compassionate appointment. Admittedly, the services of the deceased father of the



petitioner were never officially regularised. Moreover, the denial of regularisation was based in the deceased not satisfying the requisite conditions prescribed by the applicable Government Instructions dated 07.03.1996 and 18.03.1996 (Annexures R-2 and R-3, respectively). The deceased was hired on daily wage basis in April, 1994 while the said Instructions required the applicant to have completed 03 years of service as on 31.01.1996. Thus, the case at hand is distinguishable from ***Kuldeep Thakur(supra)*** on facts.

6. Further, the deceased passed away in the year 2002, while the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2005, which came into effect on 18.11.2005 (Annexure R-1) have been relied upon by the respondents to reject the claim of the petitioner for compassionate appointment. A perusal of the impugned speaking order (Annexure P-9) indicates that the case of the petitioner was also considered under Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2003, which only came into effect after the deceased passed away. It is trite law that compassionate appointment can only be provided in terms of the applicable policy, as it existed at the time of the death of the deceased. A two-Judge bench of the Hon'ble Supreme Court ***State of Madhya Pradesh and others vs. Ashish Awasthi (2022) 2 SCC 157*** categorically held that as far as compassionate appointment is concerned, the policy applicable at the time of death of the deceased employee would prevail. Speaking through Justice M.R. Shah, the following was held:

“4. The deceased employee died on 08.10.2015. At the time of death, he was working as a work charge employee, who was paid the



salary from the contingency fund. As per the policy/circular prevalent at the time of the death of the deceased employee, i.e., policy/circular No.C-3- 12/2013/1-3 dated 29.09.2014 in case of death of the employee working on work charge, his dependents/heirs were not entitled to the appointment on compassionate ground and were entitled to Rs. 2 lakhs as compensatory amount. Subsequently, the policy came to be amended vide circular dated 31.08.2016, under which even in the case of death of the work charge employee, his heirs/dependents will be entitled to the appointment on compassionate ground. Relying upon the subsequent circular/policy dated 31.08.2016, the Division Bench of the High Court has directed the appellants to consider the case of the respondent for appointment on compassionate ground. As per the settled preposition of law laid down by this Court for appointment on compassionate ground, the policy prevalent at the time of death of the deceased employee only is required to be considered and not the subsequent policy.

4.1 In the case of **Indian Bank and Ors. v. Promila and Anr., (2020) 2 SCC 729**, it is observed and held that claim for compassionate appointment must be decided only on the basis of relevant scheme prevalent on date of demise of the employee and subsequent scheme cannot be looked into. Similar view has been taken by this Court in the case of **State of Madhya Pradesh and Ors. v. Amit Shrivastava, (2020) 10 SCC 496**. It is required to be noted that in the case of **Amit Shrivastava (supra)** the very scheme applicable in the present case was under consideration and it was held that the scheme prevalent on the date of death of the deceased employee is only to be considered. In that view of the matter, the impugned judgment and order passed by the Division Bench is unsustainable and deserves to be quashed and set aside.”

7. Further, a Full Bench of this Court in **Krishna Kumari vs. State of Haryana 2012 (2) SCT 736**, speaking through Justice Rajan Gupta, answered the reference- “whether it would be the rules in operation at the time of death of the employee or the rules applicable on the date when case is considered by the appropriate authority” in the following manner:

“11. ...In our considered view date of death of an employee is an important factor to be taken into consideration as schemes for compassionate appointment are floated with a view to provide immediate relief to families of deceased employees to meet the financial crisis they face on death of sole bread winner. Travails of the family begin immediately thereafter. In that context, date of death assumes significance. Purpose of providing compassionate



appointment is to mitigate the hardship at that time. Thus policy applicable on the date of death needs to be invoked to provide immediate relief. Application seeking compassionate appointment should be moved promptly thereafter by his dependent and considered by the employer without undue delay. In case an application is considered by the authority after lapse of time, objective of scheme is defeated. Such schemes which are in the nature of social welfare measure and have been recognised as an exception to the general rule for offering public employment would necessarily be applicable strictly in the parameters laid down therein and accepted by the apex court in its various decisions. Particular reference may be made here to **Umesh Kumar Nagpal v. State of Haryana & Ors, 1994(3) S.C.T. 174 : (1994) 4 SCC 138**, wherein it was held that whole object of granting compassionate employment is to enable the family of deceased employee to tide over sudden crisis and to save the family from financial destitution. This favourable treatment given to dependent of the deceased employee was accepted as it bore a rationale nexus to the object sought to be achieved viz. relief against destitution. The Supreme Court held :-

"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."

In view of this clear enunciation of law we cannot but come to the conclusion that rules applicable on the date of death/incapacitation of an employee need to be followed. Needless to observe it is upto the authority to consider the application without inordinate delay and take a decision thereon. **In the eventuality application remains pending for considerable period and some other policy comes into operation, no fault can be found on part of the employee.** This appears to be the principle recognised by the Apex court in its recent judgment in **Bhawani Prasad Sonkar's case**. As held therein, application for compassionate employment has to be preferred without undue delay and has to be considered within a reasonable period of time as compassionate appointment is to meet the sudden crisis on account of death or invalidation of the bread winner of the family. We, thus, come to the conclusion that in case an application



is made by the dependent belatedly or is considered after inordinate delay, basic requirement of meeting the immediate crisis becomes redundant. Since the objective of the policy is to rescue the family from sudden event plunging it into penury, consideration of application after number of years would be beyond the principles accepted by the apex court in its various decisions. In such circumstances, it would be difficult to accept the exception to the general rule of employment as envisaged by Articles 14 and 16 of the Constitution of India. We answer the reference accordingly.”

(emphasis added)

8. It is settled law that compassionate appointment is a concession and not a right. Notably, a claim towards compassionate employment can only be made if the applicable Rules or instructions provide for it. The sole purpose behind providing this concession is to ensure that the family of the deceased or medically incapacitated employee is not rendered destitute upon his sudden death or incapacitation. Furthermore, such appointment may only be made in view of financial reasons which must be understood as foreseeable poverty due to demise or incapacitation of the breadwinner and not a mere change in standard in life. Since it allows for a side-door entry, the Rules concerning compassionate appointment are to be interpreted strictly. As such, demise/incapacitation in itself would not be enough to ensure recruitment and all parameters laid down therein must necessarily be satisfied. Reliance in this regard can be placed on the judgment rendered by a three-Judge bench of the Hon’ble Supreme Court in ***Tinku vs. State of Haryana 2024 SCC OnLine SC 3292***, wherein, speaking through Justice A.G. Masih, the following as held:

*“11. The very idea of equality enshrined in Article 14 is a concept clothed in positivity based on law. It can be invoked to enforce a claim having sanctity of law. **No direction can, therefore, be issued mandating the State to perpetuate any illegality or irregularity committed in favour of a person, an individual, or even a group of individuals which is contrary to the policy or instructions applicable.** Similarly, passing of an illegal order wrongfully*



*conferring some right or claim on someone does not entitle a similar claim to be put forth before a court nor would court be bound to accept such plea. The court will not compel the authority to repeat that illegality over again. If such claims are entertained and directions issued, that would not only be against the tenets of the justice but would negate its ethos resulting in the law being a causality culminating in anarchy and lawlessness. The Court cannot ignore the law, nor can it overlook the same to confer a right or a claim that does not have legal sanction. **Equity cannot be extended, and that too negative to confer a benefit or advantage without legal basis or justification.***

*12. As regards the compassionate appointment being sought to be claimed as a vested right for appointment, suffice it to say that the said **right is not a condition of service of an employee who dies in harness, which must be given to the dependent without any kind of scrutiny or undertaking a process of selection. It is an appointment which is given on proper and strict scrutiny of the various parameters as laid down with an intention to help a family out of a sudden pecuniary financial destitution to help it get out of the emerging urgent situation where the sole bread earner has expired, leaving them helpless and maybe penniless.***

Compassionate appointment is, therefore, provided to bail out a family of the deceased employee facing extreme financial difficulty and but for the employment, the family will not be able to meet the crisis. This shall in any case be subject to the claimant fulfilling the requirements as laid down in the policy, instructions, or rules for such a compassionate appointment.

13. It must be clearly stated here that in a case where there is no policy, instruction, or rule providing for an appointment on compassionate grounds, such an appointment cannot be granted.”

(emphasis added)

9. Further, a two-Judge bench of the Hon'ble Supreme Court in ***Canara Bank vs. Ajithkumar G.K.2025 AIR SC 1232*** , dealt with the matter *in extenso* and speaking through Justice Dipankar Datta, laid down the following:

“Judicial Precedents On The Issue of Compassionate Appointment

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11. Decisions of this Court on the contours of appointment on compassionate ground are legion and it would be apt for us to consider certain well-settled principles, which have crystallized through precedents into a rule of law. They are (not in sequential but



contextual order):

a) Appointment on compassionate ground, which is offered on humanitarian grounds, is an exception to the rule of equality in the matter of public employment [see *General Manager, State Bank of India v. Anju Jain*, (2008) 8 SCC 475].

b) **Compassionate appointment cannot be made in the absence of rules or instructions** [see *Haryana State Electricity Board v. Krishna Devi*, (2002) 10 SCC 246].

c) Compassionate appointment is ordinarily offered in two contingencies carved out as exceptions to the general rule, viz. to meet the sudden crisis occurring in a family either on account of death or of medical invalidation of the breadwinner while in service [see *V. Sivamurthy v. Union of India*, (2008) 13 SCC 730].

d) The whole object of granting compassionate employment by an employer being intended to enable the family members of a deceased or an incapacitated employee to tide over the sudden financial crisis, appointments on compassionate ground should be made immediately to redeem the family in distress [see *Sushma Gosain v. Union of India*, (1989) 4 SCC 468].

e) **Since rules relating to compassionate appointment permit a side-door entry, the same have to be given strict interpretation** [see *Uttaranchal Jal Sansthan v. Laxmi Devi*, (2009) 11 SCC 453].

f) **Compassionate appointment is a concession and not a right and the criteria laid down in the Rules must be satisfied by all aspirants** [see *SAIL v. Madhusudan Das*, (2008) 15 SCC 560].

g) None can claim compassionate appointment by way of inheritance [see *State of Chattisgarh v. Dhirjo Kumar Sengar*, (2009) 13 SCC 600].

h) Appointment based solely on descent is inimical to our constitutional scheme, and being an exception, the scheme has to be strictly construed and confined only to the purpose it seeks to achieve [see *Bhawani Prasad Sonkar v. Union of India*, (2011) 4 SCC 209].

i) None can claim compassionate appointment, on the occurrence of death/medical incapacitation of the concerned employee (the sole bread earner of the family), as if it were a vested right, and any appointment without considering the financial condition of the family of the deceased is legally impermissible [see *Union of India v. Amrita Sinha*, (2021) 20 SCC 695].

j) An application for compassionate appointment has to be made immediately upon death/incapacitation and in any case within a reasonable period thereof or else a presumption could be drawn that the family of the deceased/incapacitated employee is not in immediate need of financial assistance. Such appointment not being



a vested right, the right to apply cannot be exercised at any time in future and it cannot be offered whatever the lapse of time and after the crisis is over [see Eastern Coalfields Ltd. v. Anil Badyakar, (2009) 13 SCC 112].

k) The object of compassionate employment is not to give a member of a family of the deceased employee a post much less a post for post held by the deceased. Offering compassionate employment as a matter of course irrespective of the financial condition of the family of the deceased and making compassionate appointments in posts above Class III and IV is legally impermissible [see Umesh Kumar Nagpal v. State of Haryana, (1994) 4 SCC 138].

l) Indigence of the dependents of the deceased employee is the first precondition to bring the case under the scheme of compassionate appointment. If the element of indigence and the need to provide immediate assistance for relief from financial destitution is taken away from compassionate appointment, it would turn out to be a reservation in favour of the dependents of the employee who died while in service which would directly be in conflict with the ideal of equality guaranteed under Articles 14 and 16 of the Constitution [see Union of India v. B. Kishore, (2011) 13 SCC 131].

*m) **The idea of compassionate appointment is not to provide for endless compassion** [see I.G. (Karmik) v. Prahalad Mani Tripathi, (2007) 6 SCC 162].*

n) Satisfaction that the family members have been facing financial distress and that an appointment on compassionate ground may assist them to tide over such distress is not enough; the dependent must fulfil the eligibility criteria for such appointment [see State of Gujarat v. Arvindkumar T. Tiwari, (2012) 9 SCC 545].

o) There cannot be reservation of a vacancy till such time as the applicant becomes a major after a number of years, unless there are some specific provisions [see Sanjay Kumar v. State of Bihar, (2000) 7 SCC 192].

p) Grant of family pension or payment of terminal benefits cannot be treated as substitute for providing employment assistance. Also, it is only in rare cases and that too if provided by the scheme for compassionate appointment and not otherwise, that a dependent who was a minor on the date of death/incapacitation, can be considered for appointment upon attaining majority [see Canara Bank (supra)].

q) An appointment on compassionate ground made many years after the death/incapacitation of the employee or without due consideration of the financial resources available to the dependent of the deceased/incapacitated employee would be directly in conflict with Articles 14 and 16 of the Constitution [see National Institute of



Technology v. Niraj Kumar Singh, (2007) 2 SCC 481].

r) Dependents if gainfully employed cannot be considered [see Haryana Public Service Commission v. Harinder Singh, (1998) 5 SCC 452].

s) The retiral benefits received by the heirs of the deceased employee are to be taken into consideration to determine if the family of the deceased is left in penury. The court cannot dilute the criterion of penury to one of "not very well-to-do". [see General Manager (D and PB) v. Kunti Tiwary, (2004) 7 SCC 271].

t) Financial condition of the family of the deceased employee, allegedly in distress or penury, has to be evaluated or else the object of the scheme would stand defeated inasmuch as in such an eventuality, any and every dependent of an employee dying-in-harness would claim employment as if public employment is heritable [see Union of India v. Shashank Goswami, (2012) 11 SCC 307, Union Bank of India v. M. T. Latheesh, (2006) 7 SCC 350, National Hydroelectric Power Corporation v. Nank Chand, (2004) 12 SCC 487 and Punjab National Bank v. Ashwini Kumar Taneja, (2004) 7 SCC 265].

u) The terminal benefits, investments, monthly family income including the family pension and income of family from other sources, viz. agricultural land were rightly taken into consideration by the authority to decide whether the family is living in penury. [see Somvir Singh (supra)].

v) The benefits received by widow of deceased employee under Family Benefit Scheme assuring monthly payment cannot stand in her way for compassionate appointment. Family Benefit Scheme cannot be equated with benefits of compassionate appointment. [see Balbir Kaur v. SAIL, (2000) 6 SCC 493]

w) The fixation of an income slab is, in fact, a measure which dilutes the element of arbitrariness. While, undoubtedly, the facts of each individual case have to be borne in mind in taking a decision, the fixation of an income slab subserves the purpose of bringing objectivity and uniformity in the process of decision making. [see State of H.P. v. Shashi Kumar, (2019) 3 SCC 653].

*x) **Courts cannot confer benediction impelled by sympathetic consideration** [see Life Insurance Corporation of India v. Asha Ramchandra Ambekar, (1994) 2 SCC 718].*

*y) **Courts cannot allow compassionate appointment dehors the statutory regulations/instructions. Hardship of the candidate does not entitle him to appointment dehors such regulations/instructions** [see SBI v. Jaspal Kaur, (2007) 9 SCC 571].*

*z) **An employer cannot be compelled to make an appointment on***



compassionate ground contrary to its policy [see *Kendriya Vidyalaya Sangathan v. Dharmendra Sharma*, (2007) 8 SCC 148].

It would be of some relevance to mention here that all the decisions referred to above are by coordinate benches of two Judges.”

10. Therefore, it is clear that the deceased was not a regular employee and therefore, his dependents cannot claim the concession of compassionate appointment in lieu of the services rendered by him. Further, the grant of compassionate appointment requires strict interpretation of the applicable policy, which has not been brought to the fore by either party. Thus, in absence of a specific policy framed to this effect, the petitioner cannot be considered for the compassionate appointment. This Court does not find any infirmity in the impugned order as the deceased had only rendered 08 years of service before his death in the year 2002. As such, the claim for regularisation of the deceased- father of the petitioner cannot be considered. Accordingly, the present petition is dismissed being devoid of any merit.

11. Pending miscellaneous application(s), if any, stand disposed of accordingly.

(HARPREET SINGH BRAR)
JUDGE

03.02.2026

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1. Whether speaking/ reasoned :	Yes /No
2. Whether reportable :	Yes /No