2026:UHC:10033-DB

HIGH COURT OF UTTARAKHAND AT NAINITAL

HON'BLE THE ACTING CHIEF JUSTICE SRI MANOJ KUMAR TIWARI AND HON'BLE SRI JUSTICE SUBHASH UPADHYAY

2nd Novermber, 2026

Special Appeal No. 447 of 2026

Sushil Kumar --Appellant

Versus

Regional Manager, Bank of Baroda
and Others --Respondents

Counsel for the appellant : Mr. Tapan Singh, learned counsel

Counsel for the respondents : Mr. Sumit Bajaj, learned counsel

The Court made the following:

JUDGMENT:(per Hon'ble The Acting Chief Justice Sri Manoj Kumar Tiwari)

1. This Intra-Court appeal is directed against the judgment and order dated 05.10.2026, rendered by learned Single Judge in Writ Petition (SS) No. 2262 of 2024, Sushil Kumar Vs. Regional Manager Bank of Baroda and Others. By the said judgment, writ petition filed by the appellant challenging the rejection of his claim for compassionate appointment was dismissed on the ground that similar claim staked by appellant's younger brother for compassionate appointment, was subsequently rejected, therefore younger brother should have approached the writ Court for challenging the rejection order.

2. Operative portion of the impugned judgment is reproduced below:

> "6. Having heard the submissions made by learned counsel for the parties and having perused the material available on record, this Court is of the firm opinion that this writ petition deserves to be dismissed on the primary ground that application of the younger son of deceased employee, namely, Ashok Kumar was rejected by the respondents on the ground that the initial representation was made by the

> wife of the deceased to grant employment to the elder son i.e. Sushil Kumar the petitioner, but, thereafter, the final representation was made to grant employment to the younger son i.e. Ashok Kumar. It was also rejected on the ground that no new documents were submitted by the wife of the deceased to substantiate the penury condition of the family and as the competent authority had already arrived at the decision after examining the matter in its totality therefore, it does not deem it fit to revisit or change the decision rejecting the application for appointment on compassionate ground. The last representation was made to grant employment on compassionate grounds to the younger son i.e. Ashok Kumar, but the elder son i.e. Sushil Kumar has approached this Court. Needless to say this order will not bar Ashok Kumar whose representation, has been rejected, to approach this Court."

3. Learned counsel for the appellant submits that father of the appellant was employed as Group-D employee (Daftari) in Bank of Baroda, who died while in harness on 13.08.2016. Mother of the appellant made application on behalf of the appellant for his appointment on compassionate ground. The said application, however, was rejected by the competent authority by holding that the family cannot be said to be living in a state of penury so as to warrant compassionate appointment.

4. Learned counsel for the Bank-respondent, however, submits that since appellant's younger brother also made application for compassionate appointment after rejection of appellant's request, therefore, appellant could not have filed writ petition challenging the decision taken by the competent authority, whereby his representation was rejected.

5. Learned counsel for the appellant, however, submits that merely because younger brother of the appellant also applied for compassionate appointment, cannot denude

the appellant of his right to challenge the decision taken by competent authority on his request/representation.

6. He further submits that application made on behalf of appellant by his mother alone was rejected on merits by holding that the family is not living in a state of penury, while the request made by appellant's brother for compassionate appointment was not rejected on merits but merely on the ground that similar request made by appellant was turned down.

7. We find substance made on behalf of the appellant.

8. Appellant and his younger brother are two separate individuals with independent rights and obligations, therefore merely because appellant's younger brother also applied for compassionate appointment after rejection of appellant's application will not deprive the appellant of his right to challenge the order of rejection passed on his application by the competent authority.

9. Even otherwise also, the competent authority has rejected the application made by appellant's brother not on merits, but on the ground that prayer for compassionate appointment made by the appellant was rejected.

10. For the aforesaid reasons, the judgment in question is interferable.

11. We, therefore, allow this intra-court appeal, set aside the impugned judgment and remit the matter back

to learned Single Judge to hear and decide the writ petition on merits.

MANOJ KUMAR TIWARI, A.C.J.

SUBHASH UPADHYAY, J.

Dt: 02.11.2026
Mahinder

MAHINDER SINGH

