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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 4209/2026

BELA DEVI .....Petitioner

Through: Mr. A. K. Bhakta and Mr. Kamal Kant Jha, Advocates.

versus

UNION OF INDIA & ANR. .....Respondents

Through: Ms. Ekta Choudhary, Ms. Kanchan Semwal and Ms. Rushali Sikandara, Advocates for R-1/UOI.
Mr. Sachin Chauhan and Ms. Ridhi Dua, Advocates for R-2.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% 01.04.2026

1. The Petitioner's husband was employed with Engineering Projects (India) Ltd., Respondent No. 2, and died in harness on 20th September, 2020. He was survived by the Petitioner, Shri Amit Kumar Prajapati (son), and Chandani(daughter).

2. Following his death, the Petitioner sought compassionate appointment for her son by representation dated 9th November, 2020. When no decision followed, she approached this Court in W.P.(C) 15488/2025 which was disposed of on 30th October, 2020, directing Respondent No. 2 to dispose of the Petitioner's representation.

3. In compliance with the aforenoted directions, Respondent No. 2 has

passed the following impugned order:

"Sub.: ***Request for Compassionate Appointment to Shri Amit Kumar Prajapati S/o Late Shri Ram Surat***

Dear Madam,

This is with reference to your request for compassionate appointment of Sh. Amit Kumar Prajapati, son of Late Sh. Ram Surat.

EPIL follows its Compassionate Appointment Policy framed in 2013, which aligns with the Central Government's "Scheme for Compassionate Appointment". It is pertinent to mention that the Hon'ble Apex Court has in a catena of judgments held that compassionate appointment may be given as a concession not a right. This provision strives to relieve only "the dependent family members" eligible for compassionate appointment from immediate and imminent financial crisis.

The definition of "dependent family member" in EPIL's scheme follows the Central Government framework. As per the Department of Personnel & Training (DoPT) FAQ dated 30th May, 2013, a married son is not considered a dependent family member for compassionate appointment.

Factual Position:

1. Your son, Shri Amit Kumar Prajapati, has already been working as an Office Assistant within the same organization through third party since 2013, much before the demise of Shri Ram Surat as on 20th September, 2020. This establishes that your son was gainfully employed at the time of your husband's death.

2. It is pertinent to mention that Late Shri Ram Surat had less than seven months of service left before the date of his superannuation (as on 30th April, 2021) and an amount of Rs. 52, 73,971/- (53 Lakhs approx.) was paid to your family as settlement of terminal benefits. This establishes that the family is not facing any immediate financial destitution.

3. As per the instructions of the Government of India, a son is treated as dependent only until he attains the age of 25 years or starts earning, whichever is earlier. Furthermore, he had already attained the age of 35 years in 2020, and has been independently earning since 2013. This establishes the fact that your son was not a dependent family member at the time of Shri Ram Surat's demise.

4. The family continues to benefit and remains eligible for medical and EPF benefits.

5. Furthermore, Shri Amit Kumar Prajapati was married and was maintaining his own separate family much before the death of Late Shri Ram Surat, which further establishes his independent economic status.

***Legal Position**:*

The Supreme Court has consistently held that compassionate appointment is an exception to regular recruitment and can be granted only within the strict terms of the scheme in force. The judgments relied on are as follows:

Umesh Kumar Nagpal v. State of Haryana (1994) 4 SCC 138:

Compassionate appointment is not a right but a limited mechanism to relieve immediate financial hardship faced due to the death of the breadwinner. It cannot be treated as hereditary employment.
State of Himachal Pradesh v. Shashi Kumar (2019) 3 SCC 653:
Compassionate appointment is controlled entirely by the scheme in force. No authority or court may expand eligibility on sympathetic grounds.
Canara Bank v. M. Mahesh Kumar (2015) 7 SCC 412:
Eligibility must be determined strictly with reference to the policy applicable on the date of death. Financial condition is a core factor.
State of Uttar Pradesh v. Premlata (2022) 1 SCC 30:
The definition of "dependent family member" in the scheme is final. No person outside that definition can be considered.
N.C. Santhosh v. State of Karnataka (2020) 7 SCC 617:
The policy in force on the date of death alone governs eligibility. No retrospective relaxations are permissible.
Punjab National Bank v. Ashwini Kumar Taneja (2004) 7 SCC 265:
Only those who were genuinely dependent on the deceased employee can claim compassionate appointment.
Director of Treasuries v. V. Somyashree (2021) 12 SCC 20:
Compassionate appointment is an exception to Articles 14 and 16 and must be narrowly applied. Sympathy cannot override the policy.
Mumtaz Yunus Mulani v. State of Maharashtra (2008) 11 SCC 384:
Appointment on compassionate grounds is not a source of recruitment, but a means to enable the family of the deceased to get over sudden financial crises.
<u>Conclusion:</u>
After examining the records, the applicable policy framework, and the settled position of law laid down by the Hon'ble Supreme Court, it is clear that the claim for compassionate appointment cannot be sustained.
First, compassionate appointment can be considered only for those family members who fall strictly within the definition of "dependent family member" under the scheme in force on the date of death.
The DoPT's clarification, which EPIL follows, categorically excludes a married and independently earning son from the definition of a dependent. Shri Amit Kumar Prajapati had been gainfully employed as an Office Assistant through an outsourced agency since 2013, and he had also been maintaining his own family prior to the death of Late Shri Ram Surat. These facts confirm that he was neither financially dependent nor part of the dependent household at the relevant time.
Second, the Supreme Court has consistently held that compassionate appointment is not a vested right but an exception carved out only to mitigate immediate financial distress resulting from the sudden death of the breadwinner. It cannot be extended where the family is financially stable or where the candidate is already self-sufficient. In this case, the family received substantial terminal dues of approximately Rs. 53 lakhs, and is

entitled to receive family pension, and also entitled to other benefits. The presence of an independently earning son further rules out any financial crisis of the kind that the scheme is intended to address.
Third, the scheme does not permit relaxation of eligibility on sympathetic grounds. Courts have repeatedly emphasized that no authority can expand the scope of the policy or create eligibility where the scheme does not provide for it. Since Shri Amit Kumar Prajapati does not fall within the eligible category, the request cannot be considered without violating the governing policy and the principles laid down by the Apex Court.
For these reasons, the request does not meet the mandatory criteria prescribed under EPIL's Compassionate Appointment Scheme read with the Central Government Scheme.
Both the factual matrix and the governing legal standards lead to the clear conclusion that the claim is ineligible."

4. Mr. A.K. Bhakta, Counsel for the Petitioner, urges that Respondent No. 2 has rejected the request for compassionate appointment on a legally flawed understanding of the governing scheme. The Petitioner's son, Shri Amit Kumar Prajapati, has been treated as ineligible on the ground that he is a married son and, therefore, not a "dependent family member". This is contrary to the clarification issued by the Department of Personnel & Training in FAQ No. 60 dated 25th February, 2015, read with the O.M. dated 16th January, 2013, whereby it is clarified that a married son is not excluded from consideration solely on that ground, if otherwise eligible. The impugned order, therefore, rests on a legally unsustainable premise.

5. It is further submitted that the Respondents have failed to consider the Petitioner's case in light of the financial distress pleaded. The Petitioner's husband was the sole earning member and, upon his demise, the family was left in acute financial difficulty. Notwithstanding these circumstances, the Respondents rejected the claim mechanically, without a meaningful consideration of the family's economic condition or the object of compassionate appointment.

6. The mere fact that the Petitioner's son was engaged as an Office Assistant on an outsourced/contractual basis could not justify denial of compassionate appointment. Such engagement neither confers financial stability nor is comparable to regular employment, as contemplated under the scheme. The Respondents have erroneously treated the existence of some income as determinative of non-dependency, instead of undertaking a realistic appraisal of the family's financial vulnerability.

7. It is also pointed out that in a similarly situated case, namely that of Ritesh Mishra, compassionate appointment was granted in the same organisation pursuant to directions issued by this Court in W.P.(C) 7656/2023 (decided on 3rd October, 2024), notwithstanding that the death in that case occurred subsequent to the Petitioner's case. The submission is that the Respondents have applied inconsistent standards, thereby denying the Petitioner parity of treatment, in violation of Article 14 of the Constitution.

8. On the other hand, Mr. Sachin Chauhan, counsel for Respondent No. 2, argues that the Petitioner's request was duly considered and rejected for valid reasons reflected in the impugned order. It is contended that compassionate appointment is not a matter of right or general benevolence, but a narrowly tailored exception intended to alleviate financial distress caused by the death of an employee, and must therefore be applied strictly to cases satisfying the prescribed criteria of dependency and financial need.

9. Shri Amit Kumar Prajapati did not satisfy the requirement of dependency at the relevant time. He had been working as an Office Assistant on an outsourced basis in the same organisation since 2013, much prior to the death of the employee in 2020; was about 35 years of age; and was married with his own family. These circumstances demonstrate that he was

not financially dependent on the deceased and, therefore, fell outside the scope of a dependent family member under the scheme.

10. Further, the financial condition of the family did not disclose the degree of hardship contemplated under the scheme. It is pointed out that the deceased employee had less than seven months of service remaining and that terminal benefits of approximately INR 52.73 lakhs were paid. In addition, the family continues to receive family pension and other benefits. In these circumstances, the element of sudden financial destitution, which underlies the scheme, was absent.

11. As regards the reliance on the clarification relating to a married son, it is submitted that marital status is not the sole basis of rejection. The impugned order rests on a cumulative assessment of factors, including the son's pre-existing employment, independent income, age, and family responsibilities, coupled with the absence of financial crisis. The decision is, therefore, neither arbitrary nor contrary to the governing policy, and warrants no interference under Article 226.

Discussion and Reasons

12. The law on compassionate appointment is well settled. It is not a parallel source of public employment. Nor is it a form of inherited service benefit that automatically passes to a family member upon the death of an employee. It is a narrowly drawn exception to the ordinary rule of recruitment, justified only by the need to relieve a family from sudden financial distress caused by the death in harness of its breadwinner. That is why the Supreme Court has repeatedly insisted that such claims must be tested strictly on the terms of the governing scheme, and not on sympathy

alone.[1]

13. Seen in that light, the Petitioner is right only to a limited extent. If the impugned order were to be read as rejecting the claim merely because the proposed candidate is a married son, that reasoning would not be entirely sound. The later clarification relied upon by the Petitioner does indicate that marriage, by itself, does not place a son outside consideration in every case. But that does not carry the Petitioner very far. The real question is not whether the son was married. The real question is whether, on the date of death of the employee, he answered the description of a dependent family member within the meaning and object of the scheme.

14. On that issue, the Respondents cannot be said to have acted arbitrarily. The impugned order does not proceed on marital status alone. It records that Shri Amit Kumar Prajapati had already been working as an Office Assistant in the same organisation, though through a third party, since 2013, that is, several years before the death of the employee in September 2020. It also records that he was about 35 years of age at the relevant time and was maintaining his own family. These are not irrelevant facts but germane for deciding the claim. They go directly to the question whether he was financially dependent on the deceased employee when the claim for compassionate appointment arose. Once the Respondents formed the view, on those facts, that he was already self-supporting, the Court cannot lightly substitute its own assessment merely because another view may also have been possible.

15. The financial position of the family also cannot be left out of account. Compassionate appointment is intended to meet immediate financial crisis,

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[1] ***Canara Bank v. Ajithkumar G.K***. 2025 SCC OnLine SC 290.

not to provide employment whenever a family may still prefer that course. The impugned order notes that the deceased employee had less than seven months of service left before superannuation and that terminal dues of about INR 52.73 lakhs were paid to the family. It also refers to continuing family pension and other benefits. The Petitioner urges that the family is still in hardship. That submission may well reflect the family's lived difficulty, but that alone cannot be the basis to grant compassionate appointment.

16. The argument that the son's outsourced engagement should have been ignored because it was not regular employment also does not persuade the Court. A compassionate appointment scheme is concerned with real dependency and immediate financial need. Regularity of appointment may matter in service law for other purposes. Here, however, the material fact is that the proposed candidate was already earning and had been doing so for years before the death of the employee. The Respondents were entitled to treat that as a significant indicator that he was not a dependent in the sense in which the scheme uses that expression.

17. The plea of discrimination based on the case of Ritesh Mishra also does not assist the Petitioner. Compassionate appointment turns on the facts of each case, the composition of the family, the financial condition left behind, the status of the proposed candidate, and the terms of the applicable scheme. Unless the Petitioner shows that the other case stood on materially identical facts, no enforceable parity can be claimed. A reference to another decision of the employer, without a clear demonstration of factual identity, cannot by itself establish hostile discrimination.

18. The impugned decision cannot be characterised as perverse, irrational, or contrary to the governing policy. For these reasons, this Court does not

find any ground to interfere with the impugned order in exercise of jurisdiction under Article 226 of the Constitution. The writ petition is accordingly dismissed.

SANJEEV NARULA, J

APRIL 1, 2026/*hc*