2026:DHC:4405

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

Reserved on: 08.04.2026
Date of decision:18.05.2026
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\+ W.P.(C) 3034/2014, CM APPL. 6342/2014

M/S BSES YAMUNA POWER LTD. .....Petitioner

Through: Mr. Sandeep Prabhakar, Sr. Adv. with Mr. Vikas Mehta, Advs.

versus

VINOD KUMAR .....Respondent

Through: Mr. Pankaj Tripathi, Mr. Gaurav Antil, Advs.

CORAM:
HON'BLE MS. JUSTICE SHAIL JAIN

JUDGMENT

SHAIL JAIN, J.

1. The present Petition has been filed under Article 226 of the Constitution of India, *inter alia*, challenging the Award dated 22nd March, 2014 (hereinafter also referred to as 'impugned Award'), passed by the learned Presiding Officer, Industrial Tribunal, Karkardooma Courts, Delhi, arising out of Industrial Dispute (I.D.) No. 14/11 between the Respondent/Claimant and the Petitioner/Management, whereby the learned Tribunal allowed the Respondent/Claimant's claim and subsequently directed the Petitioner/Management to consider the Respondent/Claimant's case for Compassionate Appointment on the merits.

2. The present dispute arises from the claim raised by the Respondent seeking appointment on compassionate grounds consequent upon the demise of his father, who was employed by the Petitioner Organisation. The Respondent's request for compassionate appointment, having not been acceded to at the departmental level, the appropriate Government referred the industrial dispute for adjudication to the learned Industrial Tribunal on the issue as to whether the demand for compassionate appointment was justified. Upon adjudication, the learned Tribunal passed the impugned Award holding the demand of the Respondent to be justified and consequently directed the Petitioner Organisation to consider the Respondent's case for appointment on compassionate grounds in accordance with law. Aggrieved by the said Award, the Petitioner has invoked the writ jurisdiction of this Court under Article 226 of the Constitution of India.

<u>FACTUAL BACKGROUND</u>

3. The brief factual background leading to the filing of the present Petition is set out hereunder-

A. Late Sh. Sunder, father of the Respondent herein, was employed as a Lineman with the erstwhile Delhi Vidyut Board (DVB). Pursuant to the restructuring and unbundling of DVB into successor DISCOMs in the year 2001, the services of the said employee stood transferred to the Petitioner/Management on an "as is where is" basis.

B. On 26th August, 2003, while discharging his official duties, Late Sh. Sunder suffered a fatal accident and died due to electrocution during the course of employment. In respect of the said incident, FIR

No. 232/2003 also came to be registered at Police Station Anand Parbat, Delhi.

C. Following the demise of the employee, all admissible terminal and retirement benefits amounting to approximately Rs. 4,22,629/- (Rupees Four Lakh Twenty Two Thousand Six Hundred and Twenty Nine only) were released in favour of the legal heirs of the deceased employee. The said amount included GPF, gratuity, EDLIS, DRF, widow fund and other statutory dues. In addition, thereto, compensation amounting to Rs. 3,23,910/- (Rupees Three Lakh Twenty Three Thousand Nine Hundred and Ten only) was also paid under the provisions of the Employees' Compensation Act, 1923.

D. Further, the widow of the deceased employee had also been receiving a family pension of approximately Rs. 6,600/- (Rupees Six Thousand and Six Hundred only) per month.

E. The Respondent, being the son of the deceased employee, submitted an application seeking compassionate appointment for the first time only on 10th February, 2010, i.e., after a lapse of approximately six and a half years from the date of death of the employee. The said request was rejected by the Petitioner/Management.

F. Aggrieved thereby, the Respondent approached the Conciliation Officer. Upon failure of the conciliation proceedings, the appropriate Government referred the industrial dispute for adjudication to the learned Industrial Tribunal, Karkardooma Courts, Delhi, vide the following terms of reference:

> *"Whether the demand of Akhil Bhartiya Karamchari Trade Union (Regd. No.4366) regarding appointment of Sh. Vinod Kumar S/o.*

late Sh. Sunder in BSES Yamuna Power Ltd on compassionate ground is justified? If so, what directions are necessary in this respect?"

G. Pursuant thereto, the dispute came to be registered as ID No. 14/11, wherein the Respondent sought appointment on compassionate grounds in place of his deceased father.

H. The Petitioner/Management contested the claim by filing a written statement, inter alia, raising the following objections:

a. The claim was barred by limitation under Clause 16(j) of the Delhi Vidyut Board Scheme for Compassionate Appointments, 1999 (hereinafter also referred to as the 'Scheme'), which prescribes a maximum period of two years;

b. The family was not in financial distress or indigent condition as required under Clause 16(c) of the Scheme;

c. No regular vacancies were available in Group C or D posts, and recruitment was not being undertaken.

d. The Respondent was not eligible for Group C posts, being only a matriculate.

e. Compassionate appointment is not a vested or automatic right.

I. The learned Tribunal, however, *vide* the impugned Award, held the claim of the Respondent to be justified and directed the Petitioner/Management to consider the case of the Respondent for compassionate appointment on merits within a stipulated period.

J. Aggrieved by the said Award, the Petitioner has preferred the present Writ Petition seeking, inter alia, the following reliefs:

"a) a writ in the nature of Certiorari or any other appropriate writ/order/direction quashing/setting aside the impugned award

dated 22.03.2014 passed by the Court of Shri Mahavir Singhal, Ld. POIT, Karkardooma Courts, Delhi, in ID No.14/2011;
b) pass any other order or direction as deemed fit and proper in the facts and circumstances of the case."

4. In addition to the aforesaid, the grounds set out hereunder have been relied upon by the Petitioner in respect to the reliefs claimed by the Petitioner Organisation.

A. That the learned Tribunal failed to appreciate Clauses 5(a) and 16(c) of the Scheme for Compassionate Appointment, which require the family of the deceased employee to be in indigent and immediate financial distress. The material on record clearly demonstrated that the family had received substantial terminal benefits along with family pension and, therefore, did not fall within the category of financial destitution contemplated under the Scheme.

B. The learned Tribunal failed to consider that the Respondent had been gainfully employed since the year 2007 and had himself admitted to intermittent employment, thereby negating the existence of any continuing financial crisis warranting compassionate appointment.

C. That under Clauses 7(a) and 7(b) of the Scheme, compassionate appointment could only be granted against existing regular vacancies within the prescribed 5% quota for direct recruitment, whereas admittedly, no vacancies in Group 'C' or Group 'D' posts were available or being filled by the Petitioner/Management.

D. That the Respondent, being only a matriculate, was ineligible for appointment to Group 'C' posts and, in any event, no vacancy existed in the Group 'D' cadre.

E. The claim was hopelessly barred under Clause 16(j) of the Scheme, which prescribes a limitation period of two years, whereas the Respondent raised the claim after an unexplained delay of approximately six and a half years from the death of the employee.

F. The learned Tribunal failed to appreciate the settled legal position that compassionate appointment is not a vested right, but merely an exception intended to address immediate financial hardship arising from the death of an employee.

G. That the finding of the learned Tribunal treating the existence of a 5% quota as creating an entitlement to compassionate appointment is contrary to the Scheme and based on an erroneous interpretation of Clause 7(a), which specifically mandates the existence of vacancies.

H. The impugned Award suffers from perversity, non-application of mind and findings contrary to the evidence available on record.

5. It may also be noted that, both before this Court as well as the learned Tribunal, the consistent stand of the Respondent has been as follows-

A. The family of the deceased employee was financially dependent upon him and was left in financial distress after his demise.

B. The Respondent, upon attaining majority in the year 2005, applied for a compassionate appointment and continuously pursued his claim through representations and intervention of the Union.

C. That the Respondent fulfils the eligibility criteria for appointment to a Group 'D' post and is entitled to compassionate appointment under the applicable Scheme.

D. The delay in consideration of the claim is attributable to the Petitioner/Management and cannot be used to defeat the legitimate claim of the Respondent.

E. That the Respondent remains unemployed or is merely engaged in daily wage work, and the family continues to suffer financial hardship.

ISSUES INVOLVED

6. In light of the facts and grounds noted hereinabove, the questions that arise for consideration before this Court are set out hereunder.

I. Whether the impugned Award is contrary to the settled law that compassionate appointment is not a vested right but only an exception meant to provide immediate financial relief to the family of a deceased employee.

II. Whether the impugned Award suffers from perversity, non-application of mind or patent illegality warranting interference under Article 226 of the Constitution of India, and if so, to what relief the parties are entitled.

SUBMISSIONS OF THE PARTIES

7. As regards the submissions of the parties, the following contentions were urged on behalf of the Petitioners.

A. It was submitted on behalf of the Petitioner that the learned Tribunal acted contrary to the Policy for Compassionate Appointment and the settled principles governing compassionate appointments.

Reliance was placed primarily on the admissions made by the Respondent in his cross-examination.

B. The Petitioner further contended that compassionate appointment is intended only for indigent families facing immediate financial hardship, which was absent in the present case. According to the Petitioner, the Respondent applied nearly 6½ years after the death of his father, and after the family having received substantial terminal benefits, compensation and family pension.

C. It was further submitted that, upon considering the terminal benefits received by the legal heirs of the deceased employee, the earning members and the family size, the Respondent did not satisfy the eligibility criteria under Clause 16(c) of the Policy. According to the Petitioner, the learned Tribunal failed to return any finding on this crucial aspect.

D. Learned Counsel for the Petitioner also submitted that compassionate appointment could only be granted against available vacancies within the prescribed 5% quota, and that no such vacancy existed. It was further submitted that the Respondent, being only a matriculate, was not eligible for a Group 'C' post.

E. It was additionally submitted that the claim was barred under Clause 16(j) of the Policy, as the Respondent admittedly applied for compassionate appointment only on 10th February, 2010, despite the death of the employee having occurred on 26th August, 2003. According to the Petitioner, the contrary finding of the learned Tribunal was unsupported by any documentary evidence.

F. Accordingly, it was submitted that the impugned Award suffers from perversity and findings contrary to the material on record.

8. In contradistinction, the following submissions were advanced on behalf of the Respondent/Claimant.

A. It was submitted on behalf of the Respondent that although the family had received terminal benefits, the same had been expended towards the marriage expenses of his sister. According to the Respondent, the family pension of approximately Rs. 6,600/- (Rupees Six Thousand Six Hundred only) per month was insufficient to maintain a family of nearly ten members.

B. The Respondent further submitted that his mother subsequently passed away during the COVID-19 pandemic, following which the pension also ceased. It was also contended that his brother was no longer contributing towards household expenses and had been residing separately.

C. It was submitted that the Respondent was a minor at the time of the death of his father and attained majority only in the year 2005, whereafter he approached the Petitioner seeking compassionate appointment. According to the Respondent, the delay in seeking an appointment was therefore beyond his control.

D. The Respondent also contended that the Petitioner had intended to appoint him to a Group 'D' post, but the same could not be processed due to the failure of the Petitioner to prepare the accident report. It was further submitted that two other persons had been granted compassionate appointments in the year 2006.

E. Lastly, while acknowledging that compassionate appointment is not a matter of right, the Respondent submitted that he is presently working merely as a daily wager and requires regular employment for the sustenance of his family.

ANALYSIS AND REASONING

9. The Court has heard the learned Counsels for the respective parties and perused the record. At the outset, it is noted that no judgments or precedents were cited on behalf of the Respondent herein. This Court has, therefore, proceeded to determine the issues arising for consideration with reference to the settled principles of law laid down in a catena of decisions of the High Courts as well as the Hon'ble Supreme Court.

10. Before adverting to the issues framed in the present Petition, it is apposite to observe that the jurisdiction of this Court under Articles 226 and 227 of the Constitution of India, while examining an Award passed by the Labour Court, is supervisory in nature and circumscribed in scope. It is well settled that the High Court does not act as an appellate authority over the findings returned by the Labour Court. Interference is warranted only where the Award suffers from patent illegality, perversity, jurisdictional error, or where material evidence has been ignored. 12.

11. Therefore, the High Court, in writ proceedings, does not re-examine or re-appreciate the evidence recorded by the Tribunal below, nor does it substitute its own view for that of the adjudicatory body. The award of the Labour Court can be set aside only if there is an error apparent on the face of the record.

12. So, while this Court remains conscious of the limitations inherent in writ jurisdiction, it is equally mindful that findings rendered in disregard of the governing Scheme, settled legal principles, or admitted evidence cannot be permitted to sustain merely on considerations of judicial restraint.

NATURE OF COMPASSIONATE APPOINTMENT

13. At the outset, this Court deems it apposite to observe that the controversy in the present Petition lies within a narrow but well-settled legal compass. The dispute does not concern the general desirability of providing employment to the dependent of a deceased employee, nor does it involve any challenge to the validity of the applicable Scheme governing compassionate appointments. The core issue is whether, in the facts obtaining herein, the learned Industrial Tribunal could have directed the Petitioner/Management to consider the case of the Respondent for compassionate appointment despite the admitted delay, the financial position of the family, and the limitations engrafted in the applicable Scheme.

14. The jurisprudence relating to compassionate appointment has, over the years, attained a degree of consistency. The Hon'ble Supreme Court has repeatedly held that compassionate appointment is not a vested or hereditary right capable of being claimed irrespective of the governing policy or lapse of time. It constitutes merely an exception to the constitutional mandate of equality in public employment under Articles 14 and 16 of the Constitution and is intended only to alleviate the sudden financial crisis arising out of the death of an employee while in service.

15. Numerous judicial pronouncements, including those rendered by this Court as well as the Hon'ble Supreme Court, have consistently delineated

the nature, scope, and object of compassionate appointment, while also emphasising the conditions precedent governing the grant of such appointment.

16. In this regard, the recent decision of the Hon'ble Supreme Court in ***Canara Bank v. Ajithkumar G.K., [Civil Appeal No. 255 of 2025 arising out of SLP (Civil) No. 30532 of 2019, decided on 11th February, 2025]***, assumes significance, wherein the settled principles governing compassionate appointment were comprehensively examined. The Hon'ble Supreme Court reiterated that compassionate appointment is an exception to the general rule of public employment and is intended only to provide immediate financial assistance to the family of a deceased or medically incapacitated employee facing sudden financial distress. It was held that such an appointment is a concession and not a vested or hereditary right, and therefore, the governing scheme must be strictly construed and complied with. The Court further observed that indigence and immediate financial hardship are the foundational requirements for the grant of compassionate appointment, requiring due consideration of the family's financial condition, including terminal benefits, pension and other sources of income. It was additionally held that applications for compassionate appointment must be made within a reasonable period, as appointments sought after a substantial lapse of time defeat the very object of immediate relief, and that vacancies cannot ordinarily be reserved till a minor dependent attains majority unless specifically permitted under the scheme. The Hon'ble Supreme Court also reiterated that compassionate appointment cannot be granted dehors the applicable rules or contrary to the employer's policy, and that courts cannot direct such appointments merely on sympathetic considerations.

17. Thus, it clearly emerges that compassionate appointment is neither a vested nor an automatic right, but merely an exception to the constitutional mandate of equality in public employment under Articles 14 and 16 of the Constitution of India. It is further settled that every claim must strictly conform to the governing scheme and can be considered only where immediate financial distress arising from the death of the employee in harness is established, and that delay in seeking such an appointment materially undermines the very object of providing immediate succour to the bereaved family.

ON FINANCIAL HARDSHIP AND INDIGENCY

18. For the reasons stated above, any claim for compassionate appointment must be strictly examined within the four corners of the applicable policy, since such an appointment constitutes an exception to the general principles governing public employment and cannot be claimed as an independent or vested right.

19. In the present case, Clauses 5(a) and 16(c) of the concerned governing Scheme, which conform to the settled principles governing compassionate appointment, contemplated such appointment only where the family of the deceased employee was found to be indigent and in immediate financial distress. In turn, the object of the Scheme, read as a whole, is to provide immediate relief to a family left in penury due to the death or medical invalidation of the employee.

20. The governing Scheme, therefore, mandates an objective assessment of the financial condition of the family.

21. The material placed on record in the present matter demonstrates that the family of the deceased employee received terminal and statutory benefits aggregating to more than Rs. 7,00,000/- (Rupees Seven Lakh only), including compensation under the Employees' Compensation Act, apart from continuing family pension. The Respondent herein sought to explain the utilisation of the said amounts by contending that the money was preserved for the marriage of his sister and was eventually exhausted in the year 2012, both before the learned Tribunal as well as this Court.

22. The aforesaid explanation advanced by the Respondent itself clearly demonstrates that the amounts received by the family were preserved and subsequently utilised in 2012 towards the marriage expenses of his sister. Such a circumstance unequivocally indicates that the family was financially stable enough to retain and manage the said funds over a considerable period of time and was not facing the kind of immediate financial destitution or survival crisis which largely forms the basis for compassionate appointment under the governing Scheme.

23. Now, this Court is also well aware of the fact that receipt of terminal benefits by itself cannot automatically disentitle a claimant from consideration for compassionate appointment; nonetheless, financial hardship must necessarily be assessed holistically, keeping in view the size of the family, liabilities, earning members, educational responsibilities, and overall economic sustainability.

24. On the aspect of holistic assessment of financial hardship, it stands unequivocally admitted by the Respondent in his cross-examination before the learned Tribunal that he had been employed with certain organisations

and had undertaken gainful employment prior to seeking compassionate appointment.

25. It is important to mention herein that the aforesaid admission is quintessential to the assessment of the existence of any continuing or immediate financial crisis warranting the invocation of the compassionate appointment scheme. The Respondent's own testimony materially weakens the plea of persistent indigence and clearly demonstrates that the family had not remained entirely without means of sustenance during the intervening period preceding the application for compassionate appointment.

26. Further, in his cross-examination, the Respondent initially admitted that his brother was contributing towards the household expenses. It was only subsequently that a stand was taken that the brother had started residing separately. The said shifting position further demonstrates that the family was not entirely without financial support during the relevant period immediately following the demise of the employee. In any event, subsequent changes in family arrangements or future financial liabilities arising at a later stage cannot furnish an independent ground for claiming compassionate appointment.

27. It is also pertinent to note that the deceased employee was survived not only by the Respondent, who was admittedly a minor at the relevant time, but also by his mother and an elder brother who was otherwise eligible to seek compassionate appointment. Significantly, neither the mother nor the elder brother sought compassionate appointment immediately after the demise of the employee. The absence of any such request during the period immediately following the death of the employee materially sabotages the

plea of acute financial distress necessitating urgent intervention by way of compassionate appointment.

28. Not to mention that, at the time the claim for compassionate appointment came to be raised, the Respondent's mother was continuing to receive family pension and his brother was admittedly contributing towards the household expenses. These circumstances clearly indicate that the family was not entirely without financial support during the relevant period and substantially dilute the assertion of immediate financial destitution contemplated under the Scheme.

29. The Respondent, in turn, was required to establish, by cogent material, not merely the existence of financial hardship at the time of the death of the employee, but also the bona fide and continuing circumstances necessitating compassionate appointment at the stage when the claim was actually raised. In the absence of any substantive explanation demonstrating persistence of such financial distress over the intervening years, the very basis for invoking the compassionate appointment scheme stands seriously undermined.

30. In view of the aforesaid circumstances, this Court is of the considered view that the family had not faced the immediate financial crisis and destitution arising upon the death of the employee, which constitutes the primary and determinative consideration for the grant of compassionate appointment. Once the immediate economic hardship stands sufficiently mitigated and the family is able to sustain itself, as is evident in the present case, the very object and underlying rationale of compassionate appointment no longer survived in the present case.

31. The aforesaid circumstances leave little room for doubt that the family of the Respondent remained financially secure and adequately sustained even after the demise of the employee, thereby fundamentally eroding the plea of acute financial destitution warranting compassionate appointment. The material on record clearly indicates that the family possessed sufficient financial resources and means of subsistence during the period following the death of the employee.

32. However, the impugned Award, insofar as it records the existence of financial hardship, is conspicuously bereft of any reasoned consideration of the financial parameters prescribed under the Scheme. Further, the learned Tribunal did not objectively examine whether the family nevertheless continued to remain in such a state of financial destitution as would justify compassionate appointment under the Scheme.

33. The learned Tribunal, in the aforesaid regard, failed to properly examine the cumulative financial benefits received by the family, the existence of a continuing family pension, the admitted gainful employment undertaken by the Respondent, the substantial delay in raising the claim, and, most importantly, whether any immediate financial crisis continued to subsist at the relevant stage so as to justify compassionate appointment.

34. This, in the considered opinion of this Court, was wholly impermissible. The aforesaid considerations constituted foundational and indispensable factors for determining the Respondent's eligibility under the Scheme and necessarily required detailed and reasoned examination before any direction for compassionate appointment could have been issued. The failure of the learned Tribunal to undertake such an analysis renders the findings recorded in the impugned Award patently unsustainable in law.

35. Moreover, this Court finds that the learned Tribunal wholly failed to undertake any meaningful assessment of the financial condition of the family of the deceased employee, despite the same constituting the foundational requirement under Clauses 5(a) and 16(c) of the Scheme.

36. Furthermore, the impugned Award also does not adequately consider the admitted position that the Respondent had been engaged in intermittent employment.

37. This Court is therefore of the considered view that the learned Tribunal failed to record any cogent finding demonstrating satisfaction of the requirement of indigence and immediate financial hardship as contemplated under the Scheme, and consequently failed to correctly apply the settled principles governing compassionate appointment, having proceeded substantially on equitable and sympathetic considerations.

AVAILABILITY OF VACANCIES AND ELIGIBILITY UNDER THE SCHEME

38. Moving to the aspect of availability of vacancies and the eligibility of the Respondent, Clauses 7(a) and 7(b) of the governing Scheme unequivocally stipulate that compassionate appointment can be granted only against available regular vacancies within the prescribed 5% quota in Group 'C' and Group 'D' posts. In this regard, the Petitioner specifically pleaded that no recruitment in Group 'C' or Group 'D' posts was being undertaken during the relevant period and that no vacancies were available. It is also undisputed that the Respondent possessed only a matriculation qualification and was therefore ineligible for appointment to a Group 'C' post.

39. In such circumstances, this Court finds that no vacancy in a Group 'D' post existed against which the Respondent could have been considered

under the Scheme. Consequently, in the absence of any available vacancy within the prescribed quota, no enforceable right to compassionate appointment could have accrued in favour of the Respondent.

40. The learned Tribunal clearly erred in proceeding on the assumption that the mere existence of a compassionate appointment scheme and a 5% quota created a corresponding entitlement in favour of the Respondent. Such an approach is fundamentally contrary to the Scheme and settled law. The existence of a quota merely prescribes the outer limit within which appointments may be considered; it does not dispense with the mandatory requirements of financial hardship, eligibility, availability of vacancy, and compliance with the prescribed timeline, nor does it create an indefeasible right in favour of every claimant. Public employment can only be granted in accordance with the governing rules and against sanctioned vacancies.

41. Further, the contention of the Respondent regarding compassionate appointments allegedly granted to two other persons was specifically rebutted by the Petitioner in the Rejoinder filed before this Court, and no material was thereafter placed on record by the Respondent to substantiate the said assertion. In any event, the said contention is wholly inconsequential, as every claim for compassionate appointment must be independently examined strictly in accordance with the governing Scheme and the facts of the individual case.

42. Accordingly, this Court finds merit in the contention advanced on behalf of the Petitioner that compassionate appointment under the Scheme could only be granted against available regular vacancies within the prescribed quota, which admittedly did not exist in the present case.

ON THE POINT OF DELAY

43. Equally significant in the present matter is the aspect of delay. The deceased employee expired on 26th August, 2003, whereas the Respondent admittedly applied for compassionate appointment only on 10th February, 2010, nearly six and a half years thereafter. Clause 16(j) of the Scheme expressly prescribes a maximum period of two years for seeking compassionate appointment.

44. The explanation advanced by the Respondent is that he attained majority only in the year 2005 and thereafter pursued his claim through representations and union intervention. However, even assuming the said explanation to be correct, the first admittedly documented application arose only in the year 2010 after an unexplained delay of nearly five years. No contemporaneous documentary material demonstrating a continuous pursuit of the claim from 2005 onwards was produced either before the learned Tribunal or before this Court. Significantly, the Respondent admittedly did not approach the Petitioner immediately upon attaining majority, and the claim came to be raised nearly five years thereafter.

45. The Respondent was correspondingly expected to demonstrate bona fide diligence in pursuing the claim for compassionate appointment, particularly since such an appointment is founded upon the existence of an immediate and pressing financial crisis. In matters concerning compassionate appointment, the conduct of the claimant and the promptitude with which the claim is pursued are crucial factors in assessing the genuineness of the alleged penury.

46. At this stage, it is apposite to refer to the judgment of the Hon'ble Supreme Court in ***Canara Bank v. Ajithkumar G.K. (supra)***, wherein it was observed and held as under:-

> *"25. [……] One of the foremost factors for appointment on compassionate ground is that the same should be offered at the earliest. Unless appointment is made soon after the need to mitigate hardship arises, tiding over the immediate financial crisis owing to (i) sudden premature and untimely death of the deceased employee or (ii) medical incapacitation resulting in the employee's unfitness to continue in service, - for which benevolence is shown by offering an appointment - may not exist and thereby the very object of such appointment could stand frustrated."*

47. The significance of delay in matters concerning compassionate appointment, therefore, cannot be understated, since the very basis of such appointment is the existence of immediate financial hardship requiring urgent ameliorative intervention. Once the family survives for several years after the demise of the employee, the element of immediacy, which constitutes the core rationale of compassionate appointment, substantially diminishes.

48. Reference may also be made to ***"Beg Raj Singh vs. State of Uttar Pradesh (2003) 1 SCC 726 "***, wherein the Hon'ble Supreme Court observed that relief may be denied where subsequent events or lapse of time render the relief redundant or incapable of being granted.

49. In spite of the aforesaid settled position, the learned Tribunal proceeded on the assumption that the Respondent had continuously pursued his claim even prior to 2010, despite there being no documentary evidence whatsoever in support thereof. The finding returned by the learned Tribunal

on this aspect is therefore directly contrary to the admitted testimony of the Respondent himself and contrary to the material available on record.

50. This Court is of the considered opinion that the learned Tribunal failed to appreciate not only the mandatory stipulation contained in Clause 16(j) of the Scheme, but also the settled legal principles governing delayed claims for compassionate appointment.

51. Though delay, by itself, may not invariably constitute the sole ground for rejection where continuing financial hardship is otherwise established, the present case cannot be viewed as one of mere delay simpliciter. The prolonged lapse of time is accompanied by several other material circumstances, namely, the substantial terminal and statutory benefits received by the family, the continued receipt of family pension, the admitted gainful employment undertaken by the Respondent prior to making the application, and the fact that no eligible family member sought compassionate appointment immediately after the death of the employee.

CONCLUSION

52. Taken cumulatively, the aforesaid circumstances unequivocally negate the existence of the immediate financial destitution contemplated under the Scheme and fully justify the refusal of compassionate appointment in the facts of the present case.

53. While this Court is not unmindful of the hardship faced by the Respondent and his family consequent upon the demise of the employee, considerations of sympathy cannot override the constitutional mandate governing public employment or the express stipulations contained in the applicable Scheme. Compassionate appointment is not intended to operate

as a source of financial advancement or long-term economic rehabilitation for the family of a deceased employee. Its object is strictly confined to providing immediate succour to a family suddenly rendered vulnerable by the untimely demise of its breadwinner, and it cannot be permitted to assume the character of an alternate mode of public employment.

54. In the considered opinion of this Court, the **impugned Award suffers from patent illegality, non-application of mind, and findings directly contrary to the material available on record.** The learned Tribunal failed to consider the mandatory stipulations contained in Clauses 5(a), 7(a), 7(b), 16(c), and 16(j) of the Scheme, and further overlooked the binding principles laid down by the Hon'ble Supreme Court governing compassionate appointment. The findings returned with respect to financial hardship, availability of vacancies, and timely pursuit of the claim are unsupported by cogent evidence and are therefore wholly unsustainable in law.

55. The impugned Award consequently warrants interference under Article 226 of the Constitution of India. Accordingly, the impugned Award dated 22nd March, 2014, passed by the learned Presiding Officer, Industrial Tribunal, Karkardooma Courts, Delhi in I.D. No. 14/11 is hereby **quashed and set aside**.

56. The present Writ Petition is accordingly allowed. Pending application(s) if any, stands disposed of. There shall be no order as to costs.

SHAIL JAIN
JUDGE

MAY 18, 2026/*MM*