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IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 25TH DAY OF JULY, 2025

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MRS JUSTICE K S HEMALEKHA

WRIT PETITION NO.202187 OF 2023 (S-KAT)

BETWEEN:

1. THE STATE OF KARNATAKA,
REPRESENTED BY THE PRINCIPAL SECRETARY,
DEPARTMENT OF REVENUE,
M. S. BUILDING, DR. AMBEDKAR VEEDHI,
BENGALURU-560001.
2. THE COMMISSIONER,
DEPARTMENT OF SURVEY,
SETTLEMENT AND LAND RECORDS,
K. R. CIRCLE, BENGALURU – 560 001.

...PETITIONERS

(BY SRI MALHARA RAO K., AAG A/W
SMT. MAYA T.R., HCGP)

AND:

SRI MAHABOOB PATEL
S/O LATE RAJA PATEL,
AGED ABOUT 39 YEARS,
R/O KASAR BHOSGA VILLAGE,
JEWARGI TALUK, KALABURAGI DISTRICT – 585 310.

...RESPONDENT

(BY SRI DEVARAJ MANOHAR, ADVOCATE)



THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE WRIT OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT OR ORDER OR DIRECTION TO QUASH THE ORDER PASSED BY THE KARNATAKA ADMINISTRATIVE TRIBUNAL AT KALABURAGI, IN APPLICATION NO.5115/2019, DATED 23.02.2022 AS PER ANNEXURE-B AND DISMISS THE APPLICATION.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 17.07.2025, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE MOHAMMAD NAWAZ
AND
HON'BLE MRS. JUSTICE K S HEMALEKHA

CAV ORDER

(PER: HON'BLE MRS. JUSTICE K S HEMALEKHA)

Appointment on compassionate ground is an exception to the general rules of public employment, which require appointments based on merit and open competition. The primary purpose of compassionate appointment is to address the immediate financial needs of the family since compassionate appointment is not a vested right. The appointment is meant to help the family to overcome the crisis caused by the death of the earning member, not to provide an alternative career path or compensate for the loss. It is also settled proposition that



the requests made after a significant delay are generally not entertained, as the immediacy of the need is considered to have diminished. It is also well settled that compassionate appointment must be made strictly according to the relevant schemes, rules and instructions issued by the Government or the concerned Authority.

2. The Apex Court in the case of ***Umesh Kumar Nagpal Vs. State of Haryana and Others***¹ (*Umesh Kumar*) emphasized the humanitarian basis of compassionate appointment and highlighted the importance of financial hardship and the need to immediate relief.

3. The Apex Court in the case of ***Canara Bank Vs. Ajitkumar G.K.***² (*Ajitkumar*) made certain observations for compassionate appointment.

¹ (1994)4 SCC 138

² (2025) SCCOnline SC 290



4. In the case of ***N.C. Santosh Vs. State of Karnataka and Others***³ (*N.C.Santosh*), the Apex Court held that the norms prevailing on the date of consideration of the application should be the basis for considering the claim.

5. The Apex Court in the case of ***State of West Bengal Vs. Debabrata Tiwari and Others***⁴ (*Debabrata Tiwari*), observed *the operation of policy/scheme for compassionate appointment is founded on considerations of immediacy. A sense of immediacy is called for not only in the manner in which the applications are processed by the concerned authorities, but also in the conduct of the applicant in pursuing his case, before the authorities and if need before the Courts.*

6. Keeping in view the above proposition of law, we have heard Sri Malhar Rao, learned Additional Advocate

³ (2020) 7 SCC 617

⁴ AIR 2023 SC 1467



General along with Smt. Maya T.R., and Sri Devaraj Manohar, learned counsel appearing for the respondent.

7. The core question that falls for consideration in this petition is *"whether the fixed limitation period governed under Rule 5 of the Karnataka Civil Services (Appointment on Compassionate Grounds) Rules, 1996 (for short, 'Rules, 1996') has to be strictly construed in the present facts and circumstances of this case?"*

8. Rule 5 of the Rules, 1996 reads as under:

"5. Application for appointment – Every dependent of a deceased Government servant, seeking appointment under these rules shall make an application within one year from the date of death of the Government servant, in such form, as may be notified by the Government, from time to time, to the Head of the Department under whom the deceased Government servant was working:

[Provided that in the case of a minor he must have attained the age of eighteen years within one year from the date of the



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death of the Government servant and he must make an application within one year thereafter:]

Provided further that nothing in the first proviso shall apply to an application made by the dependent of a deceased Government servant, after attaining majority and which was pending for consideration on the date of commencement of the Karnataka Civil Services (Appointment on Compassionate Grounds) (Amendment) Rules, 1998."

9. Cursory reading of Rule 5 of the Rules, 1996 states that an application for compassionate appointment shall be made within a period of one year from the date of death of deceased Government Servant. Each eligible dependent (dependant) family member must individually submit such application within this prescribed period. No application shall be entertained after the expiry of the said period unless the scheme or rules expressly provide for relaxation.



10. In the instant case, the father of the applicant by name Raja Patel Banda, who was working as a Peon in the office of the Tahasildar, Jewargi died in harness on 16.12.2014. Following his death, the widow, mother of the applicant submitted an application on 02.01.2015 seeking pension, retirement benefits and sought compassionate appointment not for herself, but requesting that one of her four eligible sons be considered for compassionate appointment. The authorities failed to act on or respond to her application. The second son, elder brother of the applicant filed an application on 05.10.2015. The said application was rejected on the ground that he has crossed his age limit. It is thereafter, the applicant, second son filed an application on 23.02.2017 requesting to appoint him on compassionate ground by considering the first application filed by his mother on 02.01.2015, which was acknowledged by the Tahasildar. The application was rejected on the ground that it was time barred under Rule 5 of the Rules, 1996 which requires



applications to be filed within one year of the death of the Government Servant. The applicant aggrieved by the said endorsement, challenged the same before the Karnataka State Administrative Tribunal, Kalaburagi Bench ('Tribunal', for short).

11. The Tribunal allowed the claim, holding that the widow's 2015 application constituted a valid initial cause of action and the application filed by the applicant has to be construed to be a continuation of the initial claim made by the mother. The State aggrieved by the order of the Tribunal has filed this writ petition contending that Rule 5 of the Rules, 1996 is mandatory and that each dependent are required to file their own application within the stipulated time and delay beyond one year renders the application time barred.

12. It is contended that the compassionate appointment is not a matter of right and it must be governed strictly in accordance with the rules and the



Tribunal's order undermines the purpose of the time limit and opens the door to indefinite claims.

13. It is the argument of the learned counsel for the respondent/applicant that the mother of the applicant had filed application in the year 2015, within one year period expressing her clear intention that her son be considered for compassionate appointment. It is his contention that the widow was illiterate and unaware of the technical requirements and it was the duty upon the department to inform and guide her, especially as she has submitted the request in good faith and within time. The application filed by the mother clearly indicates that the family was in distress and the compassionate appointment was really meant to provide them immediate relief. It is contended that this has to be treated as an exceptional case and provide compassionate appointment to the applicant.

14. We are not in second thought about the settled proposition of law that the rules provided under the



Compassionate Appointment Rules cannot be permitted to relax or extend the time as consistently held by the Apex Court that compassionate appointment is not a right and it must be governed strictly according to the scheme or the rules. Bearing in mind the proposition of law and Rule 5 of Rules, 1996, the facts in this case would differ as the widow who was dependant upon the Government Servant was an illiterate, she filed timely application indicating the family's intent to seek compassionate appointment. The application was filed within one year time limit prescribed under Rule 5. In that application, she clearly expressed her inability to take up employment due to age and circumstances and nominated her sons as the suitable dependants for appointment. Though the application filed by the applicant was not in the format, the intent was unambiguous. The authorities had opportunity to consider and guide the family. The applications submitted by the widow ought to have been rejected or communicated to her. There was no intimation whatsoever sent to the widow



of the deceased Government employee regarding the exercise of such an option. Had she been informed, she could have applied or rather asked her sons to make necessary application within time. When a dependant of a deceased Government Servant makes a timely application under a compassionate appointment scheme, even if informally or without prescribed format due to illiteracy, and where the authorities failed to respond, inform or guide the family, such inaction deprives the other eligible dependants of a fair opportunity to comply with the rules. Thus, the delay in the subsequent application should not be held against the dependant.

15. Under Rule 4 of the Rules, 1996 conditions of appointment states that the deceased Government Servant's family should be in financial crisis or distress. The applicant must possess the minimum academic qualification required for the post, the appointment is limited to Group-C or Group-D, and must be against the vacancy earmarked for direct recruitment and if there is no



vacancy is available in that department, alternate Government Departments may be considered. In the instant case, it is undisputed that the death of the Government employee in 2014 caused severe financial and emotional distress to the family. This is evident from the application made by the widow in 2015, stating her inability to take up the employment due to the age and requesting that one of her sons be considered. This demonstrates that the family met the essential condition of financial hardship, as required under Rule 4.

16. The Apex Court in the case of **Debabrata Tiwari** stated *supra* has observed that *the majesty of death is that it is a great leveller for, it makes no distinction between the young and the old or the rich and the poor. Death being as a consequence of birth at some point of time is inevitable for every being. Thus, while death is certain, its timing is uncertain. Further, a deceased employee does not always leave behind valuable assets; he may at times leave behind poverty to be faced*



by the immediate members of his family. Therefore, what should be done to ensure that death of an individual does not mean economic death for his family? The State's obligation in this regard, confined to its employees who die in harness, has given rise to schemes and rules providing for compassionate appointment of an eligible member of his family as an instance of providing immediate succour to such a family. Support for such a provision has been derived from the provisions of Part IV of the Constitution of India i.e. Article 39 of the Directive Principles of State Policy.

17. Further, at para No.7.2 has laid down the following principles:

"7.2. *On consideration of the aforesaid decisions of this Court, the following principles emerge:*

i. 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.

ii. 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.

iii. 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.

iv. That compassionate appointment should be provided immediately to redeem



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the family in distress. It is improper to keep such a case pending for years.

v. 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.”

18. The Apex Court emphasized that the object underlining 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 bread earner which has led the family penury and without means of any livelihood. The Apex Court observed that *sine qua non* for entertaining a claim for compassionate appointment is that the family of the deceased employee would be unable to make two ends meet without one of the dependants of the deceased employee been employed on compassionate appointment. The Apex Court emphasized that *delay on part of the*



*authorities of the State to decide claims for compassionate appointment would no doubt frustrate the very object of the scheme and the Government Officials are to act with a sense of utmost pro-activeness and immediacy. Further, emphasized that undue delay by applicants in seeking judicial relief can extinguish claims referring to **Moon Mills Limited Vs. M.R. Mehar, President Industrial Court, Bombay and Others**,⁵ (*Moon Mills Limited*) and observed that a prolonged delay could disentitle the grant of relief to a person.*

19. In the latest decision of the Apex Court in the case of **Ajitkumar** stated *supra* reiterated the principles laid down in the **Debabrata Tiwari** stated *supra* emphasized that compassionate appointments are intended solely for families in dire financial distress following the untimely death of a bread winner and observed that "compassionate appointment are meant for families in hand-mouth situation, not for addressing a

⁵ AIR 1967 SC 1450



mere decline in lifestyle standards due to the loss of income and crystallized the well settled 26 guiding principles as under:

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 Jain¹⁴].

b) Compassionate appointment cannot be made in the absence of rules or instructions [see Haryana State Electricity Board v. Krishna Devi¹⁵].

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 India¹⁶].

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 India¹⁷].

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 Devi¹⁸].

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 Das¹⁹].

g) None can claim compassionate appointment by way of inheritance [see State of Chattisgarh v. Dhirjo Kumar Sengar²⁰].

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 India²¹].

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 Sinha²²].

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 Badyakar²³].



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 Haryana²⁴].

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. Kishore²⁵].



m) The idea of compassionate appointment is not to provide for endless compassion [see I.G. (Karmik) v. Prahalad Mani Tripathi²⁶].

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. Tiwari²⁷].

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 Bihar²⁸].

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 Singh²⁹].

r) Dependents if gainfully employed cannot be considered [see Haryana Public Service Commission v. Harinder Singh³⁰].

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 Tiwary³¹].

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 Goswami³², Union Bank of India v. M. T. Latheesh³³, National Hydroelectric Power Corporation v. Nank Chand³⁴ and Punjab National Bank v. Ashwini Kumar Taneja³⁵].

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. SAIL³⁶].



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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 Kumar³⁷].

x) Courts cannot confer benediction impelled by sympathetic consideration [see Life Insurance Corporation of India v. Asha Ramchandra Ambekar³⁸].

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 Kaur³⁹].

z) An employer cannot be compelled to make an appointment on compassionate ground contrary to its policy [see Kendriya Vidyalaya Sangathan v. Dharmendra Sharma⁴⁰].



20. The Apex Court in the case of **Ajitkumar** laid down guiding principles restricting compassionate appointments only to cases of acute financial distress. The facts in the present case must be viewed in the unique context of the socio-economic background of Group 'C' and 'D' employees, which significantly differs from that of officers or supervisory staff. Group 'C' and 'D' employees generally earn modest salaries, often just enough for day to day survival. In **Ajitkumar's** case stated *supra*, the deceased was Canara Bank Officer and the Apex Court observed that the family was not indigent and significant delay in applying. In both the cases of **Debabrata Tiwari** and **Ajitkumar** stated *supra*, Apex Court reinforced that compassionate appointment is not vested right but a concession governed strictly by policies.

21. In the instant case, the deceased was Group 'D' employee, the widow applied within time, the rejection of application as time barred would have been accepted in normal course but not in the peculiar facts and



circumstances of this case in light of the timely application submitted by the immediate dependant of the Government Servant. We do not find any error in the order passed by the Tribunal warranting any interference by this Court. The appellants are directed to pass orders on application of the petitioner dated 23.01.2017 and provide compassionate appointment to the petitioner within 08 weeks from the date of receipt of this order.

22. Compassionate appointment matters being a welfare measure designed to provide immediate financial relief to bereaved families, the State bears a high duty of procedural fairness. When a timely application is made, especially by an illiterate or a widow, the authorities must act strictly, transparently and assistively. Failure to do so, can deny rightful dependants their opportunity.

23. In order to prevent recurrence of such situation and to bring clarity, transparency and procedural fairness



into the compassionate appointment process, we issue the following directions:

- i) Every application for compassionate appointment whether in prescribed format or not must be acknowledged in writing by the authority within 30 days along with clear communication about:
 - a) status of the application (incomplete or complete);
 - b) any defects in format/documentation;
 - c) the rights of other dependants to apply;
 - d) The applicable limitation period;
- ii) In cases where the applicant is widow, illiterate or otherwise, concerned Departments must take pro-active steps to assist them in filing the application in proper format and guide them regarding the steps to be followed by the other dependants to apply;
- iii) All the applications must be decided within a maximum period of 90 days from the date of receipt of the application. If the application is



found not maintainable, a reasoned order must be communicated to the applicant immediately.

- iv) A uniform Standard Operating Procedure (SOP) and training of officials handling compassionate appointment should be made by the Government to ensure no procedural lapses.

The State Government shall issue appropriate instructions to all the Heads of Departments to ensure that application for compassionate appointment are decided within the time frame stated *supra*.

23. With the above directions, we pass the following:

ORDER

The writ petition is hereby ***dismissed***.

**Sd/-
(MOHAMMAD NAWAZ)
JUDGE**

**Sd/-
(K S HEMALEKHA)
JUDGE**