

**Court No. - 5**

**Case :-** WRIT - A No. - 2628 of 2025

**Petitioner :-** Mamta Devi

**Respondent :-** State Of U.P. Thru. Prin. Secy. Deptt. Of Transport Lko. And 6 Others

**Counsel for Petitioner :-** Neeraj Kumar Baghel, Amrendra Kumar, Piyush Pathak, Praveen Yadav

**Counsel for Respondent :-** C.S.C., Pradeep Kumar Shukla

**Hon'ble Abdul Moin, J.**

Heard learned counsel for the petitioner, learned Standing counsel appearing on behalf of the respondent no. 1 and Sri Pradeep Kumar Shukla, learned counsel for the respondents no. 2 to 4.

By means of the instant writ petition, the petitioner seeks compassionate appointment on account of her father who died in harness on 21.08.2000 i.e after almost 25 years of the death of his father.

Recently, the Apex Court in the case of ***Canara Bank Vs. Ajithkumar G.K passed in Civil Appeal No. 255 of 2025 decided on 11.02.2025*** has considered this aspect of the matter and has held that the delay in applying for compassionate appointment would itself be a ground of rejection of the claim.

For the sake of convenience, the relevant observations of the Apex Court in the case of ***Ajithkumar G.K (supra)*** are reproduced below:-

*"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<sup>14</sup>].*

*b) Compassionate appointment cannot be made in the absence of rules or instructions [see Haryana State Electricity Board v. Krishna Devi<sup>15</sup>].*

*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*16].

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*17].

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*18].

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*19].

g) None can claim compassionate appointment by way of inheritance [see *State of Chattisgarh v. Dhirjo Kumar Sengar*20].

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*21].

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*22].

**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*23].**

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<sup>24</sup>].*

*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<sup>25</sup>].*

*m) The idea of compassionate appointment is not to provide for endless compassion [see I.G. (Karmik) v. Prahalad Mani Tripathi<sup>26</sup>].*

*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<sup>27</sup>].*

*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<sup>28</sup>].*

*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<sup>29</sup>].*

*r) Dependents if gainfully employed cannot be considered [see Haryana Public Service Commission v. Harinder Singh<sup>30</sup>].*

*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<sup>31</sup>].*

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<sup>32</sup>, Union Bank of India v. M. T. Latheesh<sup>33</sup>, National Hydroelectric Power Corporation v. Nank Chand<sup>34</sup> and Punjab National Bank v. Ashwini Kumar Taneja<sup>35</sup>].*

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<sup>36</sup>]*

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<sup>37</sup>].*

x) *Courts cannot confer benediction impelled by sympathetic consideration [see Life Insurance Corporation of India v. Asha Ramchandra Ambekar<sup>38</sup>].*

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<sup>39</sup>].*

z) *An employer cannot be compelled to make an appointment on compassionate ground contrary to its policy [see Kendriya Vidyalaya Sangathan v. Dharmendra Sharma<sup>40</sup>].*

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

**25. The first sub-issue is in relation to the lapse of time since the respondent's father passed away. It has been in excess of two decades. It does not require anyone to put on a magnifying glass here to assess the time that has been taken for the application of the**

*respondent for compassionate appointment to be finally decided. The parties have reached the third tier in the second round. 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.*

*27. Lapse of time could, however, be a major factor for denying compassionate appointment where the claim is lodged belatedly. A presumption is legitimately drawn in cases of claims lodged belatedly that the family of the deceased/incapacitated employee is not in immediate need of financial assistance. However, what would be a reasonable time would largely depend on the policy/scheme for compassionate appointment under consideration. If any time limit has been prescribed for making an application and the claimant applies within such period, lapse of time cannot be assigned as a ground for rejection."*

**(Emphasized by the Court)**

Considering the aforesaid judgment of the Apex Court in the case of *Ajithkumar G.K (supra)*, no case for interference is made out. Accordingly, the writ petition is dismissed.

**Order Date :- 6.3.2025**

Pachhere/-