



1 NEUTRAL CITATION NO. 2026:MPHC-IND:12615

W.P. No. 13968/2023

**IN THE HIGH COURT OF MADHYA
PRADESH
AT INDORE
BEFORE**

HON'BLE SHRI JUSTICE JAI KUMAR PILLAI

WRIT PETITION No. 13968 of 2023

RITESHWAN

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Priyvrat Singh Chouhan - Advocate for the petitioner.

Shri Utkarsh Joshi -Advocate for the respondents No.5 & 6.

Shri Ayushyaman Choudhary –GA for the respondents/State.

WITH

WRIT PETITION No. 6223 of 2024

ANITA VAN W/O SURESH GIRI GOSWAMI

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Reserved on : 17/04/2026

Post on : 04/05/2026



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ORDER

1. These are two analogous writ petitions filed under Article 226 of the Constitution of India, arising out of rival claims for compassionate appointment following the death of a government employee in harness, hence this common order shall govern disposal of both the writ petitions.

2. Writ Petition No. 13968 of 2023 is taken as the lead case. The petitioner therein, Ritesh Van, seeks a writ of mandamus directing the respondent authorities to accept his application and grant him compassionate appointment. His sister, Anita Van, is arrayed as Respondent No. 5.

3. Writ Petition No. 6223 of 2024 has been preferred by Anita Van, seeking the quashment of the impugned letters dated 23.01.2024 and 06.02.2024 (Annexure R/1), whereby the respondent authorities sought the production of a succession certificate to decide the rival claims. She further seeks a direction for her own compassionate appointment and acknowledgement of her 1/3rd share in the service emoluments.



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Facts of the Case

4. The father of the rival claimants, Shri Rameshvan Goswami, was regularly appointed as a driver under the establishment of the Civil Surgeon cum Chief Hospital Superintendent, District Hospital Ratlam. He passed away during the course of his employment on 22.06.2020.

5. Following the demise of his father, Ritesh Van submitted an application for compassionate appointment before the competent authorities on 10.12.2021 and 13.12.2021. The respondent authorities directed the production and verification of certain documents, which were duly submitted by him.

6. Anita Van also staked a claim for compassionate appointment. Confronted with the rival claims of the brother and sister, the respondent authorities issued the impugned communications dated 23.01.2024 and 06.02.2024, directing the parties to produce a succession certificate.

7. During his lifetime, the deceased employee had nominated his two sons for the service emoluments. The service emoluments were subsequently disbursed to the sons. Anita Van objected to this disbursement, asserting her rights as a legal heir and dependent, which led to parallel proceedings before the Civil Court for a succession certificate.



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Contentions of the Petitioner

8. Learned counsel for Ritesh Van submits that the entire family was dependent on the income of the deceased father. It is contended that Anita Van, being a married daughter, had left her husband's house and was living with someone else, due to which the father had severed all ties with her during his lifetime.

9. It is further submitted that Anita Van and the deceased brother, Rakeshvan, had executed affidavits granting their consent and no-objection for the compassionate appointment of Ritesh Van. Therefore, Anita Van is barred by the doctrine of *estoppel* from raising objections subsequently.

10. In WP/6223/2024, learned counsel for Anita Van argues that she is a Hindu daughter entitled to an equal share in her father's service emoluments, contending that against the settled position of law, “a nominee is just a custodian”.

11. Anita Van further contends that the no-objection affidavit relied upon by Ritesh Van is forged and fabricated. She asserts that she was asked by the respondents to submit an affidavit stating that “she is unmarried” to process her application, which she replied to through her counsel, maintaining that she is the sole deserving dependent.



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Contentions of the Respondents

12. The State authorities justify the impugned communications by submitting that since both the son and daughter submitted rival claims for compassionate appointment, the department rightly directed them to produce a succession certificate to ascertain the lawful heirs.

13. Respondents No. 5 and 6 in WP/13968/2023 raise a preliminary objection that the petition is premature. It is submitted that the civil suit filed by Anita Van for obtaining a succession certificate is still pending before the competent Civil Court at Ratlam.

14. The answering respondents further contend that Ritesh Van has not approached the Court with clean hands and is guilty of concealing material facts. They emphasize that Anita Van is the sole dependent of the deceased and the affidavits portraying her no-objection are fraudulent.

15. To bolster her claim, learned counsel for Anita Van (Respondent No. 5) has placed heavy reliance on the judgments of **Raj Kishore Kumar v. State of Bihar (2009 SCC OnLine Pat 582)** and **Piyush Kumar Anchal v. State of C.G. (2022 SCC OnLine Chh 3513)** to contend that in cases of rival claims, entitlement must be considered in order of seniority (i.e., the elder



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sibling gets first priority). Further, reliance is placed on the Hon'ble Supreme Court judgment in **Sarbati Devi & Anr. v. Usha Devi ((1984) 1 SCC 424)** to argue that a mere nomination does not deprive the heirs of their rights, as a nominee is merely a trustee/custodian.

Analysis and Conclusion

16. This Court has carefully perused the record, examined the documents appended thereto, and heard the rival contentions advanced by the learned counsel for the parties. The jurisdiction of this Court under Article 226 of the Constitution of India in matters of compassionate appointment is circumscribed. The Court does not sit as an appellate authority but examines whether the administrative action is strictly in consonance with the prevailing government policies and settled legal principles.

17. The core issue precipitating this litigation is the issuance of the impugned letters dated 23.01.2024 and 06.02.2024 by the respondent authorities, directing the rival claimants to produce a succession certificate to decide their entitlement for compassionate appointment. At the very outset, this Court finds the approach of the respondent authorities to be fundamentally misconceived. First of all, in all cases of compassionate appointment, there is no need for a



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succession certificate. A succession certificate is a legal document issued by a civil court to lawful heirs of a deceased person who died without a will. It is primarily needed to claim, transfer, or manage movable assets such as bank accounts, shares, mutual funds, and debts. It protects organizations from liability when releasing assets to rightful heirs. Compassionate appointment is not a heritable estate or a property right that devolves by succession, it is a concession granted by the employer to save the bereaved family from sudden financial destitution. Therefore, insisting on a succession certificate for processing an application for compassionate appointment is arbitrary and without the authority of law.

18. Turning to the merits of the rival claims, it is an admitted fact that the father of the petitioner died in harness on 22.06.2020. It is a well-settled proposition of law that the claim for compassionate appointment must be decided strictly on the basis of the policy that was in vogue at the time of the death of the employee. Thus, the compassionate appointment policy dated 29.09.2014 will be strictly applicable to the present case for determining the eligibility and priority of the dependents.



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19. Upon a careful perusal of Clause 2 of the said policy dated 29.09.2014, the hierarchy of eligible dependents is unambiguously laid down as follows:

"2. अनुकंपा नियुक्ति के लिए आश्रित सदस्य से तात्पर्य (क्रमानुसार)

2.1 दिवंगत शासकीय सेवक की पत्नी, अथवा पूर्णतः आश्रित पति। 2.2 मृतक शासकीय सेवक के आश्रित पति/पत्नी द्वारा योग्यता न रखने अथवा स्वयं अनुकंपा नियुक्ति न लेना चाहे तो उसके द्वारा नामांकित पुत्र या अविवाहित पुत्री।

2.3 ऐसी विधवा अथवा तलाकशुदा पुत्री, जो दिवंगत शासकीय सेवक की मृत्यु के समय उस पर पूर्णतः आश्रित होकर उसके साथ रह रही हो अथवा उपरोक्त पात्र सदस्य न होने की स्थिति में विधवा पुत्रवधु जो शासकीय सेवक की मृत्यु के समय उस पर पूर्णतः आश्रित होकर उनके साथ रह रही हो।

2.4 दिवंगत शासकीय सेवक की संतान सिर्फ पुत्री / पुत्रियां हों और वह विवाहित हो तो दिवंगत शासकीय सेवक के आश्रित पति/पत्नी द्वारा नामांकित विवाहित पुत्री।

यह स्पष्ट किया जाता है कि मृतक शासकीय सेवक के आश्रित पति/पत्नी जीवित होने पर ही विवाहित पुत्री को अनुकंपा नियुक्ति की पात्रता होगी। (ऐसी अनुकंपा नियुक्ति पाने वाली पुत्री को शासकीय सेवक के आश्रित पति/पत्नी के पालन-पोषण की जिम्मेदारी का शपथ पत्र देना होगा)

यह स्पष्ट किया जाता है कि उपरोक्त सभी कंडिकाओं के परिप्रेक्ष्य में मृतक शासकीय सेवक के आश्रित पति/पत्नी के पालन-पोषण की जिम्मेदारी का शपथ पत्र अनुकंपा नियुक्ति के पात्र अभ्यर्थी से अनिवार्यतः लिया जावेगा।"



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20. Based on the plain reading of the aforementioned clause, the order of the eligibility for a compassionate appointment is crystallized as under:-

- i. **Surviving Spouse:** The wife or wholly dependent husband of the deceased gets first priority.
- ii. **Son or Unmarried Daughter:** If the spouse is unqualified or chooses not to take the job, they can nominate a son or unmarried daughter.
- iii. **Widowed/Divorced Daughter or Daughter-in-Law:** Next in line is a widowed or divorced daughter who was fully dependent and living with the deceased. If she is unavailable, a fully dependent widowed daughter-in-law is eligible.
- iv. **Married Daughter:** If the deceased only had daughters, the surviving spouse can nominate a married daughter.
- v. **Condition for Married Daughters:** A married daughter is only eligible if the deceased's spouse is still alive. She must also submit an affidavit legally committing to the care and maintenance of the surviving spouse.
- vi. **Mandatory Condition for All Candidates:** Irrespective of the category of the eligible candidate under the aforementioned clauses, it is compulsory for the appointee to submit a formal affidavit undertaking the strict responsibility of the maintenance, care, and upkeep of the dependent spouse of the deceased government servant.



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21. Applying the aforesaid statutory hierarchy to the factual matrix at hand, it is undisputed that Respondent No. 5 is a married daughter of the deceased. Her contention that she has parted ways from her husband or is living separately has not been substantiated or proved by any decree of divorce from a competent court of law, nor is there any cogent documentary evidence to that effect on record. Thus, in the strict line of dependents prescribed by the 2014 policy, the son of the deceased (the petitioner, Ritesh Van) holds statutory priority and comes first, completely superseding the claim of a married daughter.

22. Furthermore, the record reveals that the application for compassionate appointment was duly submitted by the petitioner on 13.12.2021 whereas, Respondent No. 5 has merely made a bald assertion that she submitted an application prior to the petitioner. However, she has neither specified the date of any such application nor has any such documented application been produced before this Court.

23. This Court is also conscious of the subsequent amendment in the compassionate appointment policy that came into force in 2023, making it clear that there will be no differentiation between a married and an unmarried girl. However, this amendment does not come to the rescue of Respondent No. 5. as the death of the



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deceased occurred in the year 2020 and the petitioner explicitly applied in 2021. Thus the preference must undoubtedly be given to the petitioner.

24. The Court has also taken note of an affidavit sworn by the wife of the deceased dated 22.04.2026, which was brought on record after reserving the case, claiming that Respondent No. 5 is her sole caretaker and therefore she should be given the compassionate appointment. This affidavit is of no legal aid to Respondent No. 5. As per the strict mandate of Clause 2 of the 2014 policy, such an affidavit or nomination is legally cognizable only in the case of an unmarried daughter, or in a scenario where the deceased employee had *only* daughters. Since a rightful son (the petitioner) is available and claiming the appointment, the mother's affidavit cannot bypass the statutory priority.

25. The reliance placed by the learned counsel for Respondent No. 5 on the judgments in the cases of **Raj Kishore Kumar v. State of Bihar (2009 SCC OnLine Pat 582)** and **Piyush Kumar Anchal v. State of C.G. (2022 SCC OnLine Chh 3513)** is entirely misplaced and distinguishable on facts. Those judicial pronouncements dealt with a specific vacuum in the policy where rival claims arose between two individuals falling within the exact same category of eligibility (e.g., two eligible sons), prompting the



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Court to apply the rule of seniority. In the present case, the petitioner (son) and Respondent No. 5 (married daughter) do not stand on the same footing. The son falls in a higher, prior category under the 2014 Policy. Where the policy itself dictates a clear hierarchy, the question of importing the doctrine of seniority does not arise.

26. Similarly, the reliance on the judgment of the Hon'ble Supreme Court in **Sarbati Devi & Anr. v. Usha Devi ((1984) 1 SCC 424)** is distinguishable. While it is true that a mere nomination for terminal benefits does not confer absolute ownership and the nominee acts merely as a custodian subject to the law of succession, this principle is restricted to the disbursal of financial assets and service emoluments. It cannot be conflated with compassionate appointment. Compassionate appointment is not a property to be distributed among heirs; it is a specific scheme governed by its own standalone rules and clauses, which in this case, unequivocally favor the petitioner.

27. In view of the detailed analysis, the action of the respondent authorities in keeping the petitioner's application pending and demanding a succession certificate is legally unsustainable. Consequently, Writ Petition No. 13968/2023 filed by Ritesh Van is



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allowed, and Writ Petition No. 6223/2024 filed by Anita Van is hereby **dismissed**.

28. The impugned communications dated 23.01.2024 and 06.02.2024 are hereby **quashed and set aside**. The respondent authorities are directed to consider the case of the petitioner, Ritesh Van, for compassionate appointment in accordance with the 2014 policy, ignoring the baseless objections raised by Respondent No. 5, and issue appropriate orders within a period of **60 days** from the date of receipt of a certified copy of this Order.

29. It is further directed, as an explicit rider and condition precedent, that the respondent authorities shall obtain an affidavit from the petitioner (Ritesh Van) clearly affirming that he will properly maintain and take care of his mother and other dependents. It is made clear that in the event the petitioner fails to fulfill this obligation at any point in time, the respondent authorities shall be fully empowered to annul his compassionate appointment after complying the due process of law.

30. Pending applications, if any, are **disposed of** accordingly.

No order as to costs.

(Jai Kumar Pillai)



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Judge

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