



2026:CGHC:10223-DB

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HIGH COURT OF CHHATTISGARH AT BILASPUR

WA No. 153 of 2026

- 1 - State of Chhattisgarh Through Its Secretary, Public Works Department Mahanadi Bhawan Mantralay, New Raipur, District Raipur Chhattisgarh. (Respondent No. 1)
- 2 - The Engineer In Chief Public Works Department Near Raj Bhawan, Raipur District Raipur Chhattisgarh. Presently Nirman Bhawan, Atal Nagar, Nava Raipur, District Raipur C.G. (Respondent No. 2)
- 3 - The Executive Engineer, Public Works Department Raigarh Division, Tahsil And District Raigarh Chhattisgarh. (Respondent No. 3)
- 4 - The Sub Divisional Officer , Public Works Department Raigarh District Raigarh , Chhattisgarh (Respondent No. 4)

... Appellants

versus

Khilesh Kumar Malakar S/o Late Shri Milan Malakar Aged About 26 Years R/o Madhuban Modhipara, Raigarh Tahsil And District Raigarh Chhattisgarh. (Writ Petitioner)

... Respondent

For Appellants/State	:	Mr. S.S. Baghel, Govt. Advocate
For Respondent	:	Mr. Tanmay Thomas, Advocate

Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Ravindra Kumar Agrawal, Judge

Judgment on Board

Per Ramesh Sinha, Chief Justice

27.02.2026

- 1 Heard Mr. S.S. Baghel, learned Government Advocate, appearing for the State/appellants as well as Mr. Tanmay Thomas, learned counsel, appearing for the respondent.

- 2 By way of present writ appeal under Section 2 of Sub-Section (1) of the Chhattisgarh High Court (Appeal to Division Bench Act, 2006, the State / appellants, who were respondents in the writ petition filed by the writ petitioner / respondent herein, have challenged the order dated 25.06.2025 passed by learned Single Judge in WPS No. 5394 of 2017 (***Khilesh Kumar Malakar Vs. State of Chhattisgarh & Others***), by which the writ petition filed by the writ petitioner / respondent herein has been allowed by the learned Single Judge.
- 3 Brief facts, necessary for disposal of this appeal, are that the father of the writ petitioner / respondent was working on the post of "Gangman" in permanent gang since 1984 under the appellant No.4 Public Works Department. During his service tenure, he died in harness on 04.07.2008. After death of his father, the writ petitioner made an application for grant of compassionate appointment in view of the circulars of the State Government dated 10.06.2003 & 27.04.2006, but the respondent authorities failed to decide the application made by the writ petitioner. Thereafter, he filed a writ petition bearing W.P.(S) No.261/2012 before this Court. The said writ petition was disposed of by this Court vide order dated 18.01.2012 with direction to the respondent authorities to decide the representation of the petitioner, thereafter the petitioner made a representation before the respondent authorities but the respondent authorities did not pay any attention in this regard

and kept the matter in abeyance and the petitioner kept on representing the respondents, but ultimately the appellant No. 3 has rejected the claim of the petitioner citing that in view of the circular dated 27.04.2006, since the father of petitioner namely Milan was not a permanent gangman in work-charged establishment, as such the petitioner is not entitled for compassionate appointment. Hence, the petitioner has approached this Court by filing a writ petition bearing WPS No. 5394 of 2017, which was allowed by the learned Single Judge vide impugned order dated 25.06.2025 directing the respondent authorities to provide compassionate appointment to the petitioner within a period of 60 days from that day. Being aggrieved by the same, the instant appeal has been filed by the State / appellants.

- 4 Learned Government Advocate, appearing for the State / appellants submitted that the impugned order dated 25.06.2025 passed by the learned Single Judge is legally unsustainable as it overlooks the binding policy framework governing compassionate appointment. The State Government's policy dated 10.06.2003 clearly provides that compassionate appointment is admissible only to dependents of those employees who were permanent in contingency/work-charged establishment and died in harness. Further clarification issued vide instructions dated 27.04.2006 specifically excludes dependents of unskilled labourers who were not regularized in

the work-charged contingency establishment. In the present case, it is undisputed that the father of the writ petitioner was working as a daily wage labourer/gangman and had not been regularized at the time of his death on 04.07.2008. The subsequent recommendation dated 23.08.2008 for regularization is inconsequential, as no right had crystallized prior to his demise. Compassionate appointment being a policy-based concession and not a vested right, the learned Single Judge erred in diluting the express eligibility conditions stipulated by the State.

- 5 It is further submitted that the nomenclature “permanent unskilled labour” is merely an accounting classification under the PWD Manual and does not confer the status of a regular civil post holder within the meaning of the applicable Pension Rules. This distinction has been recognized by this Hon’ble Court in **Madhukar Talmale v. State of M.P., reported in 2003 (4) MPLJ 282** and in **Ishwar v. State of Chhattisgarh**, passed in WPS No. 542/2012 decided on 28.02.2012, wherein it has been held that permanent unskilled labour in the work-charged establishment cannot be equated with a regular employee. Therefore, the writ petitioner, being the dependent of a daily wager who was neither regularized nor holding a civil post, does not fall within the ambit of the compassionate appointment policy. The learned Single Judge failed to consider these binding precedents and the categorical policy exclusion.

- 6** It has been also argued that the claim suffers from gross delay and laches. The employee died in July 2008, whereas the first writ petition was filed in 2012 after nearly four years, and subsequent proceedings were initiated much later. Compassionate appointment is intended to provide immediate relief to tide over sudden financial crisis and cannot be claimed after lapse of considerable time when the immediacy of hardship no longer subsists. It is a settled principle that compassionate appointment is not a mode of recruitment and cannot be claimed as a matter of right. In view of the clear policy bar, absence of regular status of the deceased employee, and unexplained delay in approaching the Court, the writ petition deserved dismissal and the impugned order warrants interference.
- 7** Per contra, learned counsel, appearing for the respondent submitted that the impugned judgment of the learned Single Judge does not suffer from any illegality or perversity and calls for no interference. The deceased employee had been continuously working as “permanent unskilled labour” in the department and had rendered long years of service prior to his death on 04.07.2008. The material on record demonstrates that his name had already been recommended for regularization on 23.08.2008, which clearly indicates that he was not a casual or intermittent labourer but was working against a sanctioned set-up in the department. The denial of compassionate appointment solely on the ground that the formal order of regularization could

not be issued before his untimely death is arbitrary and defeats the welfare object of the compassionate appointment policy. The benefit cannot be denied merely due to procedural delay in issuance of a formal regularization order, particularly when the employee had otherwise fulfilled the conditions and was treated as part of the permanent gang establishment.

- 8 It is further submitted that the distinction sought to be drawn by the Appellants between “permanent unskilled labour” and a regular employee is hyper-technical and has been misapplied to the facts of the present case. The reliance on **Madhukar Talmale** (supra) and **Ishwar** (supra) is misplaced, as those cases turned on their own facts and did not deal with a situation where the employee’s regularization process had already been initiated prior to death. The learned Single Judge, upon appreciating the factual matrix, rightly concluded that the Respondents could not deny compassionate appointment by relying upon a technical classification under the PWD Manual. Compassionate appointment being a social welfare measure, the policy must receive a purposive and beneficial interpretation rather than a restrictive one.
- 9 It has been also contended that the objection regarding delay and laches is equally untenable. The writ petitioner had applied for compassionate appointment soon after the death of his father, and the rejection orders dated 21.07.2010 and 29.06.2010 were promptly challenged. The subsequent writ

proceedings and fresh consideration were pursuant to directions of this Hon'ble Court. Thus, there is no deliberate or unexplained delay attributable to the writ petitioner. In any case, when the claim is founded upon a continuing denial of lawful consideration under the policy, technical objections of delay cannot override substantive justice. The learned Single Judge has correctly appreciated the object of compassionate appointment, the service status of the deceased employee, and the surrounding circumstances, and therefore the appeal filed by the State deserves to be dismissed.

- 10** We have heard learned counsel for the parties and perused the impugned order and materials available on record.
- 11** It is not in dispute that the father of the writ petitioner had been working as "permanent unskilled labour" in the department for a considerable period prior to his death on 04.07.2008. The material available on record further indicates that his case had been recommended for regularization on 23.08.2008. The denial of compassionate appointment is founded solely on the ground that formal regularization had not been issued prior to his demise. The learned Single Judge, upon appreciation of the record, held that such a technical ground cannot defeat the beneficial object of the compassionate appointment policy. This Court finds no perversity or illegality in the said finding.
- 12** The contention of the Appellants that the deceased was merely a daily wager and not holding a civil post cannot be accepted in

the peculiar facts of the case. The classification of “permanent unskilled labour” as a mere accounting nomenclature does not conclusively determine the entitlement under a welfare scheme when the employee had rendered continuous service and was under active consideration for regularization. The authorities cannot take advantage of the fact that the formal order of regularization could not be issued before the employee’s death, particularly when the process had already been set in motion. The learned Single Judge has rightly adopted a purposive interpretation of the policy to advance its remedial object.

- 13** The objection regarding delay and laches is also without substance. The record reflects that the writ petitioner had applied for compassionate appointment within a reasonable time after the death of his father and had been pursuing his remedy against successive rejection orders. The cause of action persisted in view of repeated denials and directions issued by this Court for reconsideration. Hence, the claim cannot be rejected on the ground of delay alone.
- 14** Compassionate appointment is undoubtedly not a matter of right; however, when the policy conditions are substantially satisfied and the denial is based on a hyper-technical interpretation, judicial review is warranted. The learned Single Judge has carefully considered the applicable policy, the service status of the deceased employee, and the surrounding circumstances before granting relief. No error of law, jurisdictional infirmity, or

perversity has been demonstrated so as to warrant interference in intra-court appeal.

- 15** In view of the foregoing discussion, the Writ Appeal being devoid of merit is accordingly **dismissed**. The order dated 25.06.2025 passed by the learned Single Judge is affirmed. No order as to costs.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice

Chandra