

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA****CWP No.844 of 2025****Decided on: 25th November, 2025.**

Mangesh Thakur

.....**Petitioner****Versus**

State of H.P. and others

.....**Respondents****Coram****Ms. Justice Jyotsna Rewal Dua****Whether approved for reporting?¹**

For the Petitioner:

Mr.Naveen Kumar Dass, Advocate.

For the Respondents:

Mr. Y.P.S. Dhaulta, Additional Advocate General, Ms. Menka Raj Chauhan, Deputy Advocate General and Mr. Rajat Choudhry, Assistant Advocate General.

Jyotsna Rewal Dua, Judge

This writ petition has been filed for grant of following substantive reliefs:-

“i) That a writ in the nature of certiorari may kindly be passed and the office order of the respondent- department Annexure P-7 may kindly be quashed and set- aside.

ii) That the respondents may kindly be directed to reconsider the case of the petitioner for employment on compassionate grounds, and pass a speaking order in this context, and grant the petitioner employment on compassionate grounds.”

2. Heard learned counsel for the parties and considered the case file.

3. Shri Chattro Ram @ Chatar Singh- petitioner’s father was serving as peon in the respondent department when he died in

¹Whether reporters of print and electronic media may be allowed to see the order? Yes.



an accident on 01.11.2008 while on duty in a government vehicle.

Shri Chattro Ram's wife (petitioner's mother) furnished her no objection on 11.03.2009 for providing employment on compassionate grounds to her son- present petitioner. Petitioner applied for compassionate employment on 27.08.2010 against post of daily waged Beldar. Respondents found some defects in petitioner's application. Petitioner was directed to rectify the same. On 23.12.2011, petitioner's case was returned by the Superintending Engineer, Jal Shakti Circle, Chamba on the ground that compassionate appointment could be provided only to the wife of deceased and not to his son.

Twelve years later, petitioner instituted ***Mangesh Thakur versus State of H.P. and others***² seeking directions to the respondents to reconsider his case for employment on compassionate grounds. Taking note of the fact that respondents had only returned the case of the petitioner on 23.12.2011 with certain observations without passing any confirmed order for rejecting or allowing petitioner's case and in view of respondents having expressed their willingness to consider the employment case of the petitioner as per applicable policy, the writ petition was disposed of as under:-

"In view of above and the instructions memo dated 02.08.2023, wherein the respondents have expressed their willingness to consider the case of the petitioner, the writ

² CWP No.4331/2023, decided on 08.08.2023,



petition is disposed of with a direction to the respondents/competent authority to consider the case of the petitioner for employment on compassionate ground, as per the policy applicable at the relevant time, in accordance with law. The decision be taken within a period of six weeks from today. The copy of the order so passed shall also be communicated to the petitioner. Pending miscellaneous application(s), if any, shall also stand disposed of.

It is clarified that the Court has not expressed any view on merits of the petitioner's claim. All rights & contentions of the parties in that regard are left open."

Pursuant to above directions, respondents considered the case of the petitioner for employment on compassionate grounds and rejected it under office order appended as Annexure P-7. Petitioner feels aggrieved against this office order.

4. It would be appropriate to first take note of decision of the Hon'ble Apex Court in **Canara Bank Vs. Ajithkumar G.K.**³ wherein after referring to several authoritative pronouncements, the principles relating to compassionate employment were culled out as under:-

"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**⁴].
- b) Compassionate appointment cannot be made in the absence of rules or instructions [see **Haryana State Electricity Board v. Krishna Devi**⁵].

³Civil Appeal No.255/2025 decided on 11.02.2025

⁴(2008)8 SCC 475

⁵(2002) 10 SCC 246



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**]⁶ .

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**]⁷.

e) Since rules relating to compassionate appointment permit a sidedoor entry, the same have to be given strict interpretation [see **Uttaranchal Jal Sansthan v. Laxmi Devi**]⁸.

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**]⁹.

g) None can claim compassionate appointment by way of inheritance [see **State of Chattisgarh v. Dhirjo Kumar Sengar**]¹⁰.

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**]¹¹.

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**]¹².

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

⁶(2008) 13 SCC 730

⁷(1989) 4 SCC 468

⁸(2009) 11 SCC 453

⁹(2008) 15 SCC 560

¹⁰(2009) 13 SCC 600

¹¹(2011) 4 SCC 209

¹²(2021) 20 SCC 695



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**¹³].

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**¹⁴].

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**¹⁵].

m) The idea of compassionate appointment is not to provide for endless compassion [see **I.G. (Karmik) v. Prahalad Mani Tripathi**¹⁶].

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**¹⁷].

o) There cannot be reservation of a vacancy till such time as the applicant becomes a major after a number

¹³(2009) 13 SCC 112

¹⁴(1994) 4 SCC 138

¹⁵(2011) 13 SCC 131

¹⁶(2007) 6 SCC 162

¹⁷(2012) 9 SCC 545



of years, unless there are some specific provisions [see **Sanjay Kumar v. State of Bihar**¹⁸].

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**³].

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**¹⁹].

r) Dependents if gainfully employed cannot be considered [see **Haryana Public Service Commission v. Harinder Singh**²⁰].

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**²¹].

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-inharness would claim employment as if public employment is heritable [see **Union of India v. Shashank Goswami**,²² **Union Bank of India v. M. T. Latheesh**²³ , **National Hydroelectric Power Corporation v. Nank Chand**²⁴

¹⁸(2000) 7 SCC 192

¹⁹(2007) 2 SCC 481

²⁰(1998)5 SCC 452

²¹(2004) 7 SCC 271

²²(2012)11 SCC 307

²³(2006) 7 SCC 350

²⁴(2004) 12 SCC487



and **Punjab National Bank v. Ashwini Kumar Taneja²⁵**].

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 **State Bank of India Vs. Somvir Singh²⁶**].

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. SAIL²⁷**]

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 Kumar²⁸**].

x) Courts cannot confer benediction impelled by sympathetic consideration [see **Life Insurance Corporation of India v. Asha Ramchandra Ambekar²⁹**].

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 Kaur³⁰**].

z) An employer cannot be compelled to make an appointment on compassionate ground contrary to its policy [see **Kendriya Vidyalaya Sangathan v. Dharmendra Sharma³¹**].

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

²⁵(2004) 7 SCC 265

²⁶(2007) 4 SCC 778

²⁷(2000) 6 SCC 493

²⁸(2019) 3 SCC 653

²⁹(1994) 2 SCC 718

³⁰(2007) 9 SCC 571

³¹(2007) 8 SCC 148



While considering the case of the petitioner, respondent

No.2- the concerned Superintending Engineer has taken note of the fact that family income of the petitioner depicted as per certificate issued by Naib-Tehsildar at the relevant time was ₹40,000/- from all sources. That this depiction was found to be incorrect by the Circle Committee since the petitioner had himself stated about his mother being in receipt of family pension of ₹5400/-+ dearness allowance of ₹7800/- per month. The family income of petitioner's family was thus assessed as ₹94378/- per annum. The Circle Committee further observed that income of ₹94378/- per annum of petitioner's family at the relevant time was either in addition to income of ₹40,000/- or inclusive thereof. In any case, this stand alone income was more than prescribed limit of ₹75,000/- i.e. ₹25,000/- per person for family consisting of three persons (petitioner's family) in terms of applicable policy. Pension and other retiral benefits received by the deceased's family are required to be kept in view while considering the cases for employment assistance in light of **State of H.P. versus Shashi Kumar**³². Learned counsel for the petitioner did not dispute the factual assertions of the respondents and the applicability of policy-circular applied by the respondents for examining petitioner's case for employment on compassionate grounds in the impugned order. It is further to be seen that petitioner's father had passed away on 01.11.2008. Seventeen years have gone by. Petitioner has not

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2019(3) SCC 653.



placed on record any document to show the indigency of his family for claiming employment assistance. **Canara Bank Vs. Ajithkumar G.K.**³ also holds that lapse of time could, 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. The idea of compassionate appointment is not to provide for endless compassion.

5. In view of the above, I do not find any ground to interfere with the impugned order and for directing the respondents to provide compassionate employment to the petitioner. According, this writ petition is dismissed. Pending miscellaneous application(s), if any, shall also stand disposed of.

November 25, 2025
yogesh

Jyotsna Rewal Dua
Judge