

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(S) No.881 of 2009

Ram Lal Mahto, son of Late Rameshwar Mahto, resident of village Dumardaga, Post Booty, Police Station Sadar, District Ranchi. Petitioner

Versus

1. The Union of India through Chief Engineer, the Head Quarter Central Command, Lucknow-02.
 2. The Chief Engineer, Jabalpur Zone, Bhagat Marg, Post Box No. 84, Jabalpur Cantonment 482001.
 3. The SE / SG SOI (Personnel and Legal) for Chief Engineer, Jabalpur Zone, Bhagat Marg, Post Box No. 84, Jabalpur Cantonment 482001.
 4. The Executive Engineer, Garrison Engineer, Ranchi
- Respondents

CORAM : HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD

For the Petitioner : Mr. Samavesh Bhanj Deo, Advocate
For the Respondents : Ms. Bakshi Vibha, Advocate

Order No. 08/Dated 6th May, 2026

Prayer

1. The writ petition is under Article 226 of the Constitution of India whereby and whereunder the decision as contained in letter dated 20.08.2002 (Annexure-7) by which the claim of the petitioner for appointment on compassionate ground has been rejected due to non-availability of sufficient vacancy within 5% quota and on the ground of delay.

Factual matrix

2. The brief facts of the case as per the pleading made in the writ petition, which are required to be enumerated, read hereunder as :-

The father of the petitioner namely Late Rameshwar Mahto was a permanent employee of Army and was posted as Ex-Mazdoor (OTO) at MES, Dipatoli, Ranchi, who died in harness on 10.10.1996 leaving behind his widow namely Charki Devi and three sons namely Ram Lal Mahto (the petitioner), Puran Mahto and Aghun Mahto.

Soon after the death of the father of the petitioner, the mother of the petitioner and the widow of the deceased employee applied for appointment of her eldest son i.e. the petitioner on compassionate ground on 18.01.1997 i.e. within a span of almost three months alongwith the format of compassionate appointment duly filled up by the petitioner himself.

The Executive Engineer, Garrison Engineer, Ranchi by his letter dated 31.01.1997 returned the application submitted by the mother of the petitioner since certain original documents were not submitted with the same.

The petitioner alongwith his mother immediately submitted the required documents before the respondents.

The case of the petitioner was forwarded to the Headquarters, Commander Works Engineers, Ranchi by letter dated 19.03.1997 for necessary action.

Though the petitioner had applied for compassionate appointment in January, 1997 but the petitioner was issued a letter dated 30.10.1999 directing

him to submit moveable/ immoveable property certificate, details of his family members and No Objection certificate.

The petitioner was duly informed vide letter dated 26.02.2001 that his case for compassionate appointment is under consideration and he is at Merit No. 134.

But, to the utter surprise of the petitioner, he received a letter dated 20.08.2002 by which he has been communicated that his claim for appointment on compassionate ground has been rejected due to non-availability of sufficient vacancy within 5% quota and on the ground of delay.

It was communicated to the petitioner by letter dated 20.8.2002 that the need for immediate assistance by way of compassionate employment is to tide over the emergency and crisis is lacking in his case as the death of his father was on 10.10.1996 i.e. 5 years.

Thereafter, in the year 2009, the petitioner approached to this Court by filing the instant writ petition.

3. It is evident from the factual aspect that the father of the writ petitioner has died in harness on 10.10.1996 leaving behind the widow and the other family members including the present petitioner.

4. The due application was made for consideration of appointment on compassionate ground.

5. The case of the petitioner was considered as per the scheme and the same was rejected due to non-availability of vacancy vide letter as contained in letter dated 20.08.2002. The said order is under challenge.

Argument advanced by learned counsel for the petitioner

6. The following grounds have been taken in assailing the impugned order :-

- (i) The administrative authority, while passing the order dated 20.08.2002, has not considered the very purpose of scheme to provide appointment on compassionate ground, i.e. to provide the means for survival which has occurred due to the sudden demise of the bread earner.
- (ii) The availability/non-availability of vacancy having no concern with the object of the scheme and even though the quota is not there, said to be 5% quota, the petitioner having no fault on that, cannot be deprived from the benefit of appointment on compassionate ground.

7. Learned counsel appearing for the petitioner, based upon the aforesaid grounds, has submitted that the impugned decision suffers from an error and it is fit to be quashed and set aside.

8. Per contra, Ms. Bakshi Vibha, learned counsel representing the respondent-Union of India, has taken the following grounds in defending the impugned decision :-

- (i) The death took place on 10.10.1996 and thereafter the claim of the present petitioner was rejected on 20.08.2002 due to non-availability of vacancy under 5% quota and the writ petitioner has approached to this Court after lapse of 7 years from the date of order dated 20.08.2002 without any explanation.
- (ii) The appointment is to be provided on the basis of the provision as contained in the scheme and scheme provides that the appointment is to be provided under 5% quota. The case of the petitioner was considered but due to non-availability of vacancy, the same was rejected.
- (iii) It has also been submitted that from the date of death, i.e., on 10.10.1996, and as on today, almost 30 years have already elapsed and, as such, the very purpose to provide appointment on compassionate ground is no more available.

9. Learned counsel appearing for the respondent-Union of India, based upon the aforesaid grounds, has submitted that the impugned order, therefore, needs no interference.

Analysis

10. This Court has heard learned counsel for the parties and gone through the content of the decision so taken by the authority communicated vide letter dated 20.08.2002.

11. It is evident from the material available on record which is admitted that the father of the writ petitioner has died in harness on 10.10.1996 and thereafter application was made for consideration for appointment on compassionate ground. Such consideration was to be made on the basis of the scheme floated by the respondent concerned under which the appointment on compassionate ground was to be provided under the 5% quota of the vacancies.

12. The case of the petitioner was considered but having not found coming under the zone of consideration due to non-availability of vacancy, the application was turned down vide letter dated 20.08.2002.

13. In the case of "**State of U.P. and Others Vrs. Paras Nath**", reported in **AIR 1998 SC 2612** the Hon'ble Apex Court held that the purpose of providing employment to a dependent of a government servant dying in harness in preference to anybody else, is to mitigate the hardship caused to the family of the employee on account of his unexpected death while still in service. It was further

observed that none of these considerations can operate while the application is made after a long period of time.

14. In the case of "**Jagdish Prasad Vrs. State of Bihar and Another**", reported in **(1996) 1 SCC 301**, the Hon'ble Apex Court, while considering the object of compassionate appointment held that the object of appointment of a dependent of the deceased employees who died in harness is to relieve unexpected immediate hardship and distress caused to the family by sudden demise of the earning member of the family.

15. In the case of "**Commissioner of Public Instructions and Others Vrs. K. R. Vishwanath**", reported in **(2005) 7 SCC 206** the Hon'ble Apex Court, after taking into consideration its various judgments, reiterated that the appointment to the public service can only be made on the touchstone of Article 14 or 16 of the Constitution and compassionate appointment is an exception to general constitutional mandate in the interest of justice under peculiar circumstances.

16. The Hon'ble Apex Court, while interpreting with the very object and aim of the appointment on compassionate ground in the case of "**Food Corporation of India & Ors. Vrs. Raja Ram**", reported in **(2010) 15 SCC 366**, has held that the appointment on compassionate ground has to be

provided with the object and aim to provide immediate financial relief to the dependent of the bereaved family.

17. There is no dispute that the appointment on compassionate ground is against the mandate of Article 14 and 16 of the Constitution of India as has been held by Hon'ble Apex Court in the case of ***Umesh Kumar Nagpal vs. State of Harayana and Ors., (1994) 4 SCC 138***, for ready reference, the relevant paragraphs of the said judgment is quoted hereunder as :-

“2. The question relates to the considerations which should guide while giving appointment in public services on compassionate ground. It appears that there has been a good deal of obfuscation on the issue. As a rule, appointments in the public services should be made strictly on the basis of open invitation of applications and merit. No other mode of appointment nor any other consideration is permissible. Neither the Governments nor the public authorities are at liberty to follow any other procedure or relax the qualifications laid down by the rules for the post. However, to this general rule which is to be followed strictly in every case, there are some exceptions carved out in the interests of justice and to meet certain contingencies. One such exception is in favour of the dependants of an employee dying in harness and leaving his family in penury and without any means of livelihood. In such cases, out of pure humanitarian consideration taking into consideration the fact that unless some source of livelihood is provided, the family would not be able to make both ends meet, a provision is made in the rules to provide gainful employment to one of the dependants of the deceased who may be eligible for such employment. The whole object of granting compassionate employment is thus to enable the family to tide over the sudden crisis. The object is not to give a member of such family a post much less a post for post held by the deceased. What is further, mere death of an employee in harness does not entitle his family to such source of livelihood.

The Government or the public authority concerned has to examine the financial condition of the family of the deceased, and it is only if it is satisfied, that but for the provision of employment, the family will not be able to meet the crisis that a job is to be offered to the eligible member of the family. The posts in Classes III and IV are the lowest posts in non-manual and manual categories and hence they alone can be offered on compassionate grounds, the object being to relieve the family, of the financial destitution and to help it get over the emergency. The provision of employment in such lowest posts by making an exception to the rule is justifiable and valid since it is not discriminatory. The favourable treatment given to such dependant of the deceased employee in such posts has a rational nexus with the object sought to be achieved, viz., relief against destitution. No other posts are expected or required to be given by the public authorities for the purpose. It must be remembered in this connection that as against the destitute family of the deceased there are millions of other families which are equally, if not more destitute. The exception to the rule made in favour of the family of the deceased employee is in consideration of the services rendered by him and the legitimate expectations, and the change in the status and affairs, of the family engendered by the erstwhile employment which are suddenly upturned.

6. For these very reasons, the compassionate employment cannot be granted after a lapse of a reasonable period which must be specified in the rules. The consideration for such employment is not a vested right which can be exercised at any time in future. The object being to enable the family to get over the financial crisis which it faces at the time of the death of the sole breadwinner, the compassionate employment cannot be claimed and offered whatever the lapse of time and after the crisis is over.”

18. It is also settled by the Hon’ble Apex Court that the appointment on compassionate ground is to be made on the basis of the scheme floated by the concerned competent authority, reference in this regard be made to the judgment rendered in the case of **Bhawani Prasad Sonkar v. Union**

of India and Others (2011) 4 SCC 209] , wherein at paragraph 20 held as under:-

"**20.** Thus, while considering a claim for employment on compassionate ground, the following factors have to be borne in mind: (i) Compassionate employment cannot be made in the absence of rules or regulations issued by the Government or a public authority. The request is to be considered strictly in accordance with the governing scheme, and no discretion as such is left with any authority to make compassionate appointment dehors the scheme. (ii) An application for compassionate employment must be preferred without undue delay and has to be considered within a reasonable period of time. (iii) An appointment on compassionate ground is to meet the sudden crisis occurring in the family on account of the death or medical invalidation of the breadwinner while in service. Therefore, compassionate employment cannot be granted as a matter of course by way of largesse irrespective of the financial condition of the deceased/incapacitated employee's family at the time of his death or incapacity, as the case may be. (iv) Compassionate employment is permissible only to one of the dependants of the deceased/incapacitated employee viz. parents, spouse, son or daughter and not to all relatives, and such appointments should be only to the lowest category that is Class III and IV posts."

19. Herein, the fact is admitted that the appointment on compassionate ground is to be considered and provided under the 5% quota of the vacancy earmarked for the appointment to be made on compassionate ground. It is not the case of the writ petitioner that his case was not considered, rather, it was considered but he has not been found to be under the zone of consideration based upon non-availability of vacancy, said to be not available under 5% quota of the vacancies.

20. The father of the writ petitioner has died on 10.10.1996 and the impugned order was passed on 20.08.2002. The writ petitioner has chosen to challenge the said order in the year 2009, i.e., after lapse of 7 years. The mandate of the appointment to be provided under the compassionate ground is to provide immediate succor to the dependent of the bereaved family which has occurred due to sudden demise of the bread earner.

21. Herein, the decision so taken by the authority is dated 20.08.2002 but the writ petitioner has sat idle for 7 years and only after lapse of 7 years he has approached to this Court by filing the present writ petition.

22. The aforesaid aspect of the matter, therefore, clarifies that from the date of death, i.e., on 10.10.1996, to the date of filing the writ petition on 24.02.2009, altogether 13 years had already passed and by that time the very purpose for which the appointment on compassionate ground is to be provided, has already been frustrated. Furthermore, today we are in the year 2026 and, as such, from the date of death of the father of the petitioner altogether 30 years have been elapsed.

23. The appointment on compassionate ground being not the alternative mode to get appointment being contrary to the Article 14 and 16 of the Constitution of India, therefore, this Court is of the view that after lapse of about

30 years, if any interference will be shown to the order dated 20.08.2002 directing the respondents to provide appointment on compassionate ground, the same will run contrary to the very object and spirit of the appointment on compassionate ground.

24. The reference of the judgment passed by Hon'ble Apex Court in the case of ***Central Coalfields Ltd. vs. Parden Oraon***", reported in ***(2021) 16 SCC 384***, needs to be made herein at this juncture wherein delay of 9 years under the National Coal Wage Agreement was there and the High Court had directed for providing appointment on compassionate ground but the same has been set aside by the Hon'ble Apex Court by making an observation that after lapse of 9 years the very object to get appointment on compassionate ground has been frustrated. The relevant paragraph of the said judgment is being quoted hereunder as :-

"9. We are in agreement with the High Court that the reasons given by the employer for denying compassionate appointment to the respondent's son are not justified. There is no bar in the National Coal Wage Agreement for appointment of the son of an employee who has suffered civil death. In addition, merely because the respondent is working, her son cannot be denied compassionate appointment as per the relevant clauses of the National Coal Wage Agreement. However, the respondent's husband is missing since 2002. Two sons of the respondent who are the dependants of her husband as per the records, are also shown as dependants of the respondent. It cannot be said that there was any financial crisis created immediately after the respondent's husband went missing in view of the employment of

the respondent. Though the reasons given by the employer to deny the relief sought by the respondent are not sustainable, we are convinced that the respondent's son cannot be given compassionate appointment at this point of time. The application for compassionate appointment of the son was filed by the respondent in the year 2013 which is more than 10 years after the respondent's husband had gone missing. As the object of compassionate appointment is for providing immediate succour to the family of a deceased employee, the respondent's son is not entitled for compassionate appointment after the passage of a long period of time since his father has gone missing."

25. This Court, considering the aforesaid facts and in the entirety, is of the view that it is not a case where the direction is to be passed by showing interference in the impugned order.

26. Accordingly, the writ petition fails and is dismissed.

27. Pending interlocutory applications, if any, also stands disposed of.

(Sujit Narayan Prasad, J.)

Date : 6th May, 2026

Birendra/**A.F.R.**