

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P. (S) No. 4062 of 2025

Smt. Feko Manjhiyan, aged about 71 years, wife of Rameshwar Manjhi, Resident of village-Sijuwa, P.O. Radhanagar, P.S. Radhanagar, District-Bokaro, Jharkhand Petitioner

Versus

1. Union of India represented through the Secretary Ministry of Steel Udyog Bhawan, New Delhi, P.O. & P.S.-New Delhi, District-New Delhi.
2. The Steel Authority of India Limited, through its Chairman, Ispat Bhawan, Lodhi Road New Delhi, P.O. & P.S.-Lodhi Road, District-New Delhi.
3. The Managing Director, Steel Authority of India Limited, Bokaro Steel Plant, Bokaro Steel City, P.O. & P.S.-Bokaro Steel City, District-Bokaro, Jharkhand.
4. The Executive Director (O & A), Bokaro Steel Plant, Bokaro Steel City, P.O. & P.S.-Bokaro Steel City, District-Bokaro, Jharkhand.
5. The Assistant General Manager, Personnel Department, the Steel Foundry Department, Bokaro Steel Plant, Bokaro Steel City, P.O. & P.S.-Bokaro Steel City, District-Bokaro, Jharkhand.
6. The Deputy General Manager, Steel Foundry Bokaro Steel Plant, Bokaro Steel City, P.O. & P.S.-Bokaro Steel City, District-Bokaro, Jharkhand. Respondents

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**CORAM: HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE ARUN KUMAR RAI**

For the Petitioner : Mr. Rama Kant Tiwari, Advocate

For the Respondents : Mr. Bibhash Sinha, Advocate

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Order No.03/dated 21.01.2026

Per Sujit Narayan Prasad, J.

The writ petition is under Article 226 of the Constitution of India directed against the order dated 06.05.2025 passed by

the learned Central Administrative Tribunal, Patna, Circuit Bench at Ranchi in O.A. No. 051/00250/2024 whereby and whereunder the decision taken by the Authority in declining to grant appointment on compassionate ground, has been declined to interfere with.

2. The brief facts of the case, as per the pleading made in the writ petition having been incorporated from the original application reads as under: -

The applicant is the legally wedded wife of Late Rameshwar Manjhi, a staff member of the Bokaro Steel Plant who joined service on 19 December, 1972. He was a dedicated and sincere employee until his mysterious disappearance. On the morning of 24 September 2010, Rameshwar Manjhi left for his regular shift but never returned home. Despite extensive efforts by his family, including the filing of a missing person report by his son at Harla Police Station on 5 October 2010, no trace of him was ever found.

Following his disappearance, the applicant filed the relevant department application dt. 07.10.2010 at Bokaro Steel Plant, only to be told that Rameshwar Manjhi had already been absent from duty since 2 August, 2010, predating the reported missing date. Despite the time elapsed and lack of any information about his whereabouts for over seven years, no action was taken by the authorities to declare his death. Consequently, the

applicant was compelled to seek judicial intervention and filed a suit in 2018 seeking legal declaration of her husband's civil death.

The Civil Judge (Junior Division), Bokaro, after due proceedings, passed a decree in July and August 2018 officially declaring Rameshwar Manjhi as dead.

Following the decree, the applicant made several representations, both personally and through the Bokaro Karamchari Panchayat, seeking monetary benefits and compassionate appointment for one of her dependants.

In response, the authorities issued letter stating their unwillingness to grant a compassionate appointment but indicated that retiral benefits could be processed once the applicant vacated the official residence.

The applicant then approached the Central Administrative Tribunal (CAT) by filing O.A.No.051/00255/2022, requesting directions to release all retiral benefits and grant compassionate appointment. The Tribunal, via its order dated 13 May 2022, disposed of the application with liberty to the applicant to file fresh, detailed representations.

The representations were duly submitted, but the respondents, in their final decision dated 23rd December 2022, rejected the request for a compassionate appointment and reiterated the condition of vacating the quarter before releasing other benefits.

Thereafter, the petitioner has again filed an O.A. No. 051/00250/2024 before the CAT Patna Bench, Circuit Bench Ranchi. Consequently, written statement has been filed by the respondent's authorities.

After hearing the parties, the learned CAT vide order dated 06.06.2025 has dismissed the said O.A. i.e O.A. No. 051/00250/2024 and against the said order dated 06.05.2025 present writ petition has been preferred by the original applicant.

3. It is the fact of the present case that the employee (declared to be dead by virtue of the declaration given by the competent court) was in service of the respondent-Bokaro Steel Limited, an establishment under the Steel Authority of India Limited. While he was working, he absented from duty for a month and thereafter he became traceless.

4. The wife of the employee, the petitioner/applicant, after waiting for seven years, when her husband has not been traced out, she has made an application before the competent court of civil jurisdiction for getting declaration of civil death by taking aid of the provision of Section 108 of the Evidence Act.

5. Such declaration was given by the Court of Addl. Civil Judge (Junior Division) Bokaro vide Judgment dated 31st July, 2018 passed in Original Suit No. 04 of 2018.

6. The present petitioner, thereafter, has made an application for consideration of her case for appointment on compassionate ground but when no order was passed then she

compelled to approach the learned Central Administrative Tribunal by filing O.A.No.051/00255/2022, which was disposed of vide the order dated 13.05.2022 by giving liberty to the petitioner to give fresh representation/representations in proper format for its consideration by the respondent concerned, who had been directed to pass speaking order within the stipulated period of three months.

7. The concerned respondent has passed an order on 23.12.2022 but rejected the claim of the applicant for appointment on compassionate ground.

8. The said order dated 23.12.2022 was challenged before the learned Central Administrative Tribunal making therein the following reliefs:

“a. For quashing/setting aside the order passed dated 29.12.2022 passed by the Chief General Manager I/C whereby and where under he has illegally denied the claim of the applicant.

b. For passing an order directing the respondents authorities to pay all kind of monitory benefits to the petitioner on or after issuing Superannuation (death) order of Late Rameshwar Manjhi.

c. For passing an order directing the respondents authorities to give appointment to one ward of the petitioner on compassionate ground as the applicant's namely Rameshwar Manjhi deemed to be died during his service period.

d. Any other relief or reliefs be granted for which the applicant be deemed fit and proper.”

9. The ground has been taken on behalf of original applicant/petitioner, before the Tribunal, that once the declaration has been given by the competent court of civil jurisdiction declaring the death of the husband of the petitioner

to be civil death, there cannot be any discrimination in between the natural death and the civil death.

10. The ground has also been taken that since there is a declaration of civil death and as such, the petitioner is entitled to be appointed on compassionate ground since the said civil death will be treated to be death in harness.

11. The Tribunal has called upon the respondent who has filed written statement denying the claim of the writ petitioner *inter alia* on the ground that by the time being declaration has been given by the competent court of civil jurisdiction about the civil death of the employee, the husband of the petitioner, has reached to the normal age of superannuation and as such he has been superannuated by striking off his name from the roll of the Management and even the entire terminal benefit has been paid which has duly been received except gratuity since the quarter has been retained by the petitioner. Therefore, the submission was advanced before the learned Tribunal that once the employee has superannuated on attaining the age of superannuation, no right of the dependent of the superannuated employee to get an appointment on compassionate ground.

12. In addition, thereto the ground has also been taken that the learned Tribunal has also considered the implication of the scheme formulated by the BSL for consideration of case of one or the other dependent of the deceased employee as per the scheme formulated to that effect by reaching to the Agreement

known as NJCS Agreement wherein it has been agreed that the appointment on compassionate ground is only to be given in a case of accidental death or permanent disablement due to accident.

13. The learned Tribunal has agreed to the ground in opposition which was taken by the BSL and has rejected the original application.

14. The present writ petition is directed against the said Judgment rendered by the learned Central Administrative Tribunal.

Submission of the learned counsel for the writ petitioner:

15. Mr. Rama Kant Tiwari, learned Counsel appearing for the writ petitioner has contended that the learned Tribunal has not taken into consideration the vital aspect of the matter i.e. the very scope of the scheme which was formulated, which has been formulated by the BSL, which is to provide the social security in case of demise of the bread earner in harness.

16. It has been contended that admittedly it is a case of no natural death rather the husband of the writ petitioner was traceless and in view of the position of law as provided under Section 108 of the Evidence Act, a declaration is required for the purpose of getting declaration of civil death on completion of the period of seven years from the date of missing. Herein a declaration has been decreed by the competent court of civil jurisdiction holding the missing of the husband of the writ petitioner of civil death.

17. The ground, therefore, has been taken that once the declaration of civil death has been granted, then it was incumbent upon the respondent-BSL to provide appointment on compassionate ground in view of the scheme as agreed known as NJCS Agreement but the learned Tribunal, without considering the aforesaid spirit of the said Agreement has declined to interfere with the impugned decision primarily relying upon the condition of the Agreement as contained in paragraph 9.1, para 5.2 and para 5.2.1. as referred in para 15 of the impugned order.

18. It has been contended that the copy of the said Agreement even though was not placed before the learned Tribunal but even then, the reliance has been placed thereon. Therefore, the order passed by the Tribunal is nothing but without any application of mind and contrary to the spirit of the Agreement in which in between the stake holder as such the impugned Judgment suffers from error hence not sustainable in the eye of law.

Submission of the learned counsel for the respondent:

19. Per contra, Mr. Bibhash Sinha, learned Counsel appearing for the respondent-BSL has contended that there is no error in the impugned Judgment primarily on account of the fact that the day when the declaration to the effect of civil death has been decreed by the competent court of civil jurisdiction in the original suit No.04 i.e. dated 13.08.2018 but prior to that, the

husband of the writ petitioner has been superannuated from service on attaining the age of superannuation i.e. the 60 years.

20. It has been submitted that once an employee superannuates from service then under no scheme the appointment is to be provided on compassionate ground rather, the appointment on compassionate ground is to be granted to provide immediate succour to the dependent of the bereaved family to meet out the extreme exigency which has occurred due to the sudden demise of the bread earner, herein even though the husband of the writ petitioner has been found missing some time from the year 2010 but his name has been struck off from the roll of the Management and once the name has been struck off from the roll it is not available to seek claim for appointment on compassionate ground.

21. In addition, thereto the argument has also been advanced that the paragraph 9.1., 5.2., 5.2.1. of the NJCS Agreement also does not confer any right to the applicant for appointment on compassionate ground as has been taken note by the Tribunal in paragraph 15.

22. In order to substantiate his argument that what would be the date of civil death whether it is the date of missing or the date of the declaration which is to be given by the competent court of civil jurisdiction, he has relied upon the Judgment rendered by the Hon'ble Apex Court in the case of **The Commissioner, Nagpur Municipal Corporation and Ors. Vs. Lalita and Ors.** reported in **2025 LiveLaw (SC) 1065**.

Response of the learned Counsel for the writ petitioner

23. Mr. Tiwari, in response, has submitted that so far as the argument advanced as referred in para 15 of the order passed by the Tribunal is concerned, even though no copy of Agreement was placed on record before the Tribunal but even then, the same has been taken into consideration.

Analysis

24. We have heard the learned Counsel for the parties and have gone through the finding recorded by the learned Tribunal in the impugned Judgment.

25. The following issues requires consideration in the instant case:

- (i) *the date of the death in a situation of missing of the employee whether it will be the date of the missing or the date of giving declaration, in absence of any reference to that effect made in the decree passed by the competent court of civil jurisdiction.*
- (ii) *Whether in a case of missing and in the transition period i.e. from the date of missing till the date of declaration, in absence of any declaration being not given by the competent court of civil jurisdiction by specifying the date of civil death, and if in the meanwhile the employee concerned superannuate on attaining the age of superannuation, will the dependent of such employee be entitled for appointment on compassionate ground.*

26. Since both the issues are interlinked therefore, the issues are being taken up together, but before considering the aforesaid two issues it needs to refer herein the underline principle to interfere with the adjudication made by Central Administrative Tribunal as per the power conferred by virtue of the amendment carried out in the Constitution as under Article 323 (A) of the Constitution of India.

27. The Constitution Bench of the Hon'ble Apex Court in the case of **L. Chandra Kumar Vs. Union of India & Ors. (1997) 3 SCC 261** has been pleased to hold that the order passed by the learned Tribunal, will be amenable under Article 226 of the Constitution of India under the power of judicial review. The Hon'ble Apex Court has also given the status of the Tribunal to the Court of first instance. The relevant paragraph conferring power to be exercised by the High Court under Article 226 having taken into consideration at paragraph 99 of the said Judgment, for ready reference, the said paragraph is being referred herein:

"99. In view of the reasoning adopted by us, we hold that clause 2(d) of Article 323-A and clause 3(d) of Article 323-B, to the extent they exclude the jurisdiction of the High Courts and the Supreme Court under Articles 226/227 and 32 of the Constitution, are unconstitutional. Section 28 of the Act and the "exclusion of jurisdiction" clauses in all other legislations enacted under the aegis of Articles 323-A and 323-B would, to the same extent, be unconstitutional. The jurisdiction conferred upon the High Courts under Articles 226/227 and upon the Supreme Court under Article 32 of the Constitution is a part of the inviolable basic structure of our Constitution. While this jurisdiction cannot be ousted, other courts and Tribunals may perform a

supplemental role in discharging the powers conferred by Articles 226/227 and 32 of the Constitution. The Tribunals created under Article 323-A and Article 323-B of the Constitution are possessed of the competence to test the constitutional validity of statutory provisions and rules. All decisions of these Tribunals will, however, be subject to scrutiny before a Division Bench of the High Court within whose jurisdiction the Tribunal concerned falls. The Tribunals will, nevertheless, continue to act like courts of first instance in respect of the areas of law for which they have been constituted. It will not, therefore, be open for litigants to directly approach the High Courts even in cases where they question the vires of statutory legislations (except where the legislation which creates the particular Tribunal is challenged) by overlooking the jurisdiction of the Tribunal concerned. Section 5(6) of the Act is valid and constitutional and is to be interpreted in the manner we have indicated."

28. It is evident from the proposition laid down in the said paragraph that the High Court has been conferred with the power of judicial review to be exercised under the power conferred under Article 226 of the Constitution of India.

29. We are conscious the power which is to be exercised under the ambit of judicial review can only be exercised if there is any error apparent on the face of the record or the order suffers from any jurisdictional error. The error apparent on the face of the order means that if the order appears on its face having with error, then only the power of judicial review is to be exercised, reference in this regard be made to the judgment rendered by the Hon'ble Apex Court in the case of **West Bengal Central School Service Commission vs. Abdul Halim, (2019) 18 SCC 39**, wherein their Lordships have been pleased to hold at paragraph-30 that the power of judicial review must be

exercised by the Court after determining that the impugned is vitiated by an error apparent on the face of the record and not the same has been established by a process of reasoning. Paragraph-30 of the aforesaid judgment is being referred as under:

“30. In exercise of its power of judicial review, the Court is to see whether the decision impugned is vitiated by an apparent error of law. The test to determine whether a decision is vitiated by error apparent on the face of the record is whether the error is self-evident on the face of the record or whether the error requires examination or argument to establish it. If an error has to be established by a process of reasoning, on points where there may reasonably be two opinions, it cannot be said to be an error on the face of the record, as held by this Court in Satyanarayan Laxminarayan Hegde v. Millikarjun Bhavanappa Tirumale [Satyanarayan Laxminarayan Hegde v. Millikarjun Bhavanappa Tirumale, AIR 1960 SC 137] . -----.”

30. In the case of **T.C. Basappa vs. T. Nagappa and Anr., (1955) 1 SCR 250**, their Lordship have held that the patent error in a decision can be corrected by writ of certiorari, when it is manifested by the error apparent on the face of the proceedings. The relevant portion of the aforesaid judgment is quoted hereunder:

“11. ... An error in the decision or determination itself may also be amenable to a writ of certiorari but it must be a manifest error apparent on the face of the proceedings e.g. when it is based on clear ignorance or disregard of the provisions of law. In other words, it is a patent error which can be corrected by certiorari but not a mere wrong decision.”

31. Now this Court is proceeding to consider the aforesaid issues. It is now settled that how to deal with the situation of

an employee who is found to be missing. The consideration has been given by the court of law and by virtue of judicial pronouncement, the concept of civil death has been laid down by taking aid of the provision of Section 108 of the Evidence Act and such remedy can be availed by the family members of the missing employee for getting declaration by filing a suit before the competent court of civil jurisdiction. The same mechanism is for the purpose to get a declaration of civil death.

32. It requires to refer herein that there cannot be any discrimination in between natural death and the civil death, since, it has been held death is death whether it is natural one or the civil death after having been given declaration by the competent court of civil jurisdiction.

33. In the matter of appointment on compassionate ground there cannot be any discrimination by taking contrary view by not providing appointment on compassionate ground in a case where the declaration of civil death has been given by the competent court of civil jurisdiction.

34. However, the issue in the present case is that what would be the date of the civil death if there is no specific finding recorded by the competent court of civil jurisdiction, whether, it is on completion of the period of seven years or from the date of missing.

35. The Hon'ble Apex Court has considered the aforesaid issue in the case of ***"The Commissioner, Nagpur Municipal Corporation & Ors. Vrs. Lalita & Ors., (supra)*** that wherein

it has been held as been taken note in paragraph 9 that the relevant date of civil death will be upon the expiry of the seven years from the date of missing, for ready reference para 9 is being referred herein.

Para 9. Thus, in the facts and circumstances of the case, the father of the respondent No.2 would be deemed to have died a civil death upon the expiry of seven years from the date he went missing i.e., 01.09.2019. It is pertinent to note that despite having gone missing, he was treated to be in continuous service and he duly retired on 31.01.2015. The family members were paid all the retiral dues and have also been receiving monthly pension. In these circumstances, when the respondent No.2 has accepted that his father had retired, he cannot claim compassionate appointment.

36. This Court has gone, in detail, the Judgment/Decree passed by the competent court of civil jurisdiction in order to examine as to whether the declaration has been given regarding the civil death as to from on which date the such death will be said to be acknowledged. But there is no specific date of death rather the competent court has given a declaration of civil death only as would be evident from the operative part of the Judgment/Decree, which is being referred herein:-

It is ordered that the suit of the plaintiff stands decreed on contest and accordingly is here by made to the effect that the plaintiff's husband has attained his civil death and both parties shall bear their own cost. Decree-sheet be drawn up accordingly.

37. This Court applying the ratio of the judgment rendered by the Hon'ble Apex Court **The Commissioner, Nagpur Municipal Corporation & Ors. Vrs. Lalita & Ors.**, in the facts of the present case, in a situation where the no specific date of

death of the civil death has been given by the competent court of civil jurisdiction and as such the date of civil death will be after completion of the period of seven years from the date of missing which in the present case would be some time in the year 2017.

38. The admitted fact herein the employee, the husband of the writ petitioner has attained the age of superannuation i.e. the age of 60 years and as such he has been treated to be superannuated employee and thereafter all the terminal benefit excluding the amount of gratuity, since, as has been submitted by the learned Counsel appearing for the B.S.L. that the residential accommodation has been retained which has been accepted by receiving the said amount by the legal heirs of the concerned employee, meaning thereby, the status of the superannuation is admitted one therein.

39. The scheme although has not been brought on record, here or even before the Tribunal although the Tribunal has referred the same at paragraph 15 of the Order/Judgment impugned. The reference of para 9.1., 5.2., and 5.2.1. have been made, for ready reference, paragraph 15 of the order passed by the learned Tribunal is being quoted herein: -

Para-15. The Steel Authority of India Limited, Bokaro Steel Plant has issued a Circular No. BSL/Pers/RR/402/2010-450 dated 20.02.2010 on the subject: Guidelines & Procedure for dealing with compassionate cases with an object to bring uniformity in dealing with such matters. Para 9.1 of the said circular stipulates that "case of natural death while on

duty shall not be considered for compassionate employment. The dependent family members may avail benefits under employee family benefit scheme". Para 5.2 of the said circular deals with NJCS Agreement and Para 5.2.1 states that "compassionate appointment will be provided to one of the family members of an employee in case of death to one of the family members of any employee in case of death or permanent total disablement due to "accident arising out of and in the course of employment as per NJCS agreement".

40. We have also not insisted upon the learned Counsel for the respondent to bring it on record for the reason that it is not required in a situation where the concerned employee has attained the age of superannuation on attaining the age of 60 years i.e. the age of superannuation as applicable as per the service condition of the respondent-B.S.L., as such, this Court has proceeded to examine the issue as to whether after striking off the name from the roll of service can the appointment on compassionate ground be provided which is not *res integra* that appointment on compassionate ground is to be given, even though, it is in the teeth of Article 14 & 16 of the Constitution of India, in order to meet out the situation which has occurred due to the sudden demise of the bread earner so as to provide immediate relief by providing means of sustenance so that they may survive.

41. It is settled position of law as settled by the Hon'ble Apex Court in a catena of decisions on the appointment on compassionate ground that for all the government vacancies equal opportunity should be provided to all aspirants as

mandated under Articles 14 and 16 of the Constitution. The compassionate ground is a concession and not a right.

42. Further, law is well settled by taking into consideration the very object and intent of the appointment on compassionate ground, which is to be provided to grant succor to the dependent of the deceased-employee, as has been held in the judgment rendered by the Hon'ble Apex Court in **Umesh Kumar Nagpal v. State of Haryana [(1994) 4 SCC 138]** wherein at paragraph 6, it has been held as under:

“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.”

43. In **State of H.P. v. Shashi Kumar, (2019) 3 SCC 653** the Hon'ble Apex Court in paras 21 and 26 had considered the object and purpose of appointment on compassionate ground and also considered decision rendered in the case of in **Govind Prakash Verma v. LIC (2005) 10 SCC 289** and held as under:

“21. The decision in Govind Prakash Verma [Govind Prakash Verma v. LIC, (2005) 10 SCC 289 : 2005 SCC (L&S) 590] , has been considered subsequently in several decisions. But, before we advert to those decisions, it is necessary to note that the nature of compassionate appointment had been considered by this Court in Umesh Kumar Nagpal v. State of Haryana [Umesh Kumar

Nagpal v. State of Haryana, (1994) 4 SCC 138 : 1994 SCC (L&S) 930] . The principles which have been laid down in *Umesh Kumar Nagpal* [*Umesh Kumar Nagpal v. State of Haryana*, (1994) 4 SCC 138 : 1994 SCC (L&S) 930] have been subsequently followed in a consistent line of precedents in this Court. These principles are encapsulated in the following extract : (*Umesh Kumar Nagpal case* [*Umesh Kumar Nagpal v. State of Haryana*, (1994) 4 SCC 138 : 1994 SCC (L&S) 930] , SCC pp. 139-40, para 2)

‘2. ... 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.'

26. The judgment of a Bench of two Judges in *Mumtaz Yunus Mulani v. State of Maharashtra* [*Mumtaz Yunus Mulani v. State of Maharashtra*, (2008) 11 SCC 384 : (2008) 2 SCC (L&S) 1077] has adopted the principle that appointment on compassionate grounds is not a source of recruitment, but a means to enable the family of the deceased to get over a sudden financial crisis. The financial position of the family would need to be evaluated on the basis of the provisions contained in the scheme. The decision in *Govind Prakash Verma* [*Govind Prakash Verma v. LIC*, (2005) 10 SCC 289 : 2005 SCC (L&S) 590] has been duly considered, but the Court observed that it did not appear that the earlier binding precedents of this Court have been taken note of in that case."

44. Thus, as per the law laid down by the Hon'ble Apex Court in the aforesaid decisions, compassionate appointment is an exception to the general rule of appointment in the public

services and is in favour of the dependants of a deceased dying-in-harness and leaving his family in penury and without any means of livelihood, and 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.

45. But there is no scheme and there cannot be any scheme that after retirement also the appointment on compassionate ground is to be given, since, the underline object to provide appointment on compassionate ground is to provide means of sustenance which has occurred due to sudden demise of the bread earner while he was in service (in harness).

46. There cannot be any concept to provide appointment on compassionate ground after superannuation, since, all employees the date when one or the other employee enters in service is knowing their date of superannuation and in consequence, separation from service.

47. Herein the husband of the writ petitioner has superannuated in the year 30.12.2011 and while the declaration of civil death has come on 31.07.2018 therefore, in view of the Judgment passed by the Hon'ble Apex Court in the

case of ***The Commissioner, Nagpur Municipal Corporation & Ors. Vrs. Lalita & Ors***, the date of death would be 31.7.2018 and as such the said death would be said to occur after superannuation of the employee, the husband of the writ petitioner.

48. Although the same has been referred but no conclusive finding has been arrived at but since this Court is under the power of judicial review is scrutinizing the order passed by the learned Tribunal and as such exercising the power conferred thereto under Article 226 of the Constitution of India keeping the fact into consideration that there cannot be any interference in the outcome of the order passed by the learned Tribunal has considered this aspect of the matter which has been considered to be the vital one for the purpose of adjudication of the present issue.

49. Since the husband of the writ petitioner has already superannuated before the pending suit for declaration and as such he having been superannuated, no appointment on compassionate ground could have been extended. It needs to refer herein that the authority while passing the order has come out with the reason that there is no scope to provide appointment on compassionate ground.

50. This Court is of the view that the petitioner since has superannuated and after retirement there cannot be any scope to provide appointment on compassionate ground and if by taking the same ground the Tribunal has declined to interfere

with the administrative decision taken by the authority concerned which according to our considered view, in exercise of power of judicial review, cannot be said to suffer from an error.

51. Accordingly, this Court is of the view that the order passed by the Tribunal needs no interference and as such this writ petition is hereby dismissed.

52. Pending interlocutory application, if any, also stands disposed of.

(Sujit Narayan Prasad, J.)

(Arun Kumar Rai, J.)

21st January, 2026
P.K.S./Suman
A.F.R.