

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Special Appeal Writ No. 246/2024

URN: SAW / 665U / 2024

Murli Manohar Singh Tanwar S/o Jagdish Prasad Tanwar, Aged About 28 Years, R/o House No. 1322/18, Tanwar Bhawan, Bhagwanganjchouraha, Ajaynagar Road, Ajmer.

----Appellant-petitioner

Versus

1. State Of Rajasthan, Through Secretary Department Of Public Health Engineering Department, Secretariat, Jaipur.
2. Superintendent Engineer, Public Health Engineering Department, City Block South, Gandhi Nagar, Jaipur.
3. Chief Engineer (Administration), Public Health Engineering Department, Water House, Civil Lines, Jaipur, Rajasthan.
4. Executive Engineer, Public Health Engineering Department, City Block, Production And Distribution (South), Jaipur.

----Respondents

For Appellant(s)	:	Ms. Harshita Sharma for Dr. Mahesh Sharma
For Respondent(s)	:	Mr. Kuldeep Singh Rathore, Ms. Chelsi Agarwal for Ms. Mahi Yadav, AAG

HON'BLE MR. JUSTICE INDERJEET SINGH
HON'BLE MR. JUSTICE SANDEEP TANEJA

Order

15/07/2026

1. This appeal has been filed by the appellant-petitioner challenging the order dated 31.08.2023 passed by the learned Single Judge whereby the writ petition filed by the appellant-petitioner was dismissed.
2. Learned counsel for the appellant-petitioner submits that he is entitled for compassionate appointment which has been denied

by the respondents. It is further submitted that the learned Single Judge has wrongly dismissed the writ petition on the ground of a delay of 14 years in filing the application for compassionate appointment.

3. The learned Single Judge while dismissing the writ petition vide order dated 31.08.2023 observed as under :-

"3. Perusal of the record indicates that any dependant of the deceased Government servant is not entitled to claim compassionate appointment if any family member of the deceased Government servant is already in service. Even otherwise also, the death of the mother of the petitioner occurred in the year 2004 and the application was submitted by the petitioner after a delay of 14 years i.e. in the year 2018.

4. It is well settled preposition of law that compassionate appointment cannot be claimed as a matter of right after passing of sufficient time.

5. Time and again, the Hon'ble Apex Court has held that compassionate appointment cannot be claimed as a matter of right as the compassionate appointment is made to enable the family to tide over the crisis which is caused as a result of death of an employee while in harness. The essence of the claim lies in the immediacy of the need. This view has been taken by the Hon'ble Supreme Court in the case of **Punjab State Power Corporation Ltd.& Ors. Vs. Nirval Singh, reported in 2019(6) SCC 774** and **Indian Bank & Ors Vs. Promila & Anr reported in 2020 (2) SCC 729** and it has also been held that though the Court has sympathy with the family members of the deceased, who face the death of the deceased, but sympathy alone cannot be the basis for granting remedy to such family members and it is not for the Courts to substitute a scheme, to add or

subtract from the terms thereof in exercise of judicial review.

6. The Hon'ble Apex Court in the case of **Fertilizers and Chemicals Travancore Ltd. And Ors. Vs. Anusree K.B.: AIR 2022 SC 4766** held as under:

"Thus, as per the law laid down by this 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 dependents 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.** The object is not to give such family a post much less a post held by the deceased. Applying the law laid down by this Court in the aforesaid decisions to the facts of the case on hand and considering the observations made hereinabove and the object and purpose for which the appointment on compassionate ground is provided, the Respondent shall not be entitled to the appointment on compassionate ground on the death of her father, who died in the year 1995. **After a period of 24 years from the death of the deceased employee, the Respondent shall not be entitled to the appointment on compassionate ground.** If such an appointment is made now and/or after a period of 14/24 years, the same shall be against the object and purpose for which the appointment on compassionate ground is provided."

7. The Hon'ble Apex Court in the case of **Steel Authority of India vs. Gouri Devi: AIR 2022 SC 783** held as under:

"It is further observed that once it is proved that in spite of the death of the breadwinner, the family survived and substantial period is over, there is no need to make appointment on compassionate ground at the cost of the interests of several others

ignoring the mandate of Article 14 of the Constitution."

8. The Hon'ble Apex Court in the case of **Central Coalfields Ltd. vs. Parden Oraon: AIR 2021 SC 1876**

held as under:-

"The whole object of granting compassionate appointment is to enable the family to tide over the sudden crisis which arises due to the death of the sole breadwinner. The mere death of an employee in harness does not entitle his family to such source of livelihood. The 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 the job is offered to the eligible member of the family (Umesh Kumar Nagpal v. State of Haryana: (1994) 4 SCC 138). It was further asseverated in the said judgment that compassionate employment cannot be granted after a lapse of reasonable period as the consideration of such employment is not a vested right which can be exercised at any time in the future. It was further held that the object of compassionate appointment is to enable the family to get over the financial crisis that it faces at the time of the death of sole breadwinner, compassionate appointment cannot be claimed or offered after a significant lapse of time and after the crisis is over."

9. Taking into consideration the material available on record and applying the law laid down by the Hon'ble Apex Court in the judgments referred herein above and on perusal of the contents of this petition, this Court is of the considered view that the petition does not carry any merit.

10. In view of the discussion made hereinabove, instant petition stands dismissed. Applications (pending, if any) also stand dismissed accordingly."

4. We have gone through the order passed by the learned Single Judge as well as the order dated 06.03.2019, whereby the application of the petitioner for grant of compassionate appointment was rejected by the respondents.

5. We are in complete agreement with the view taken by the learned Single Judge for the following reasons; firstly, the application for compassionate appointment was delayed by 14 years, secondly in view of Rule 5 of the Rajasthan Compassionate Appointment of Dependents of Deceased Government Servants (Amendment) Rules, 1996, the appellant-petitioner is not entitled for compassionate appointment as husband of the deceased employee-Smt. Hardev Tanwar was in government service with the Railways.

6. In that view of the matter, the Appeal is dismissed.

7. Pending application, if any, also stands disposed of.

(SANDEEP TANEJA),J

(INDERJEET SINGH),J