



**HIGH COURT OF JUDICATURE FOR RAJASTHAN  
BENCH AT JAIPUR**

**S.B. Civil Writ Petition No. 13101/2024**

Rajkumar S/o Shri Bhonri Lal Bairwa, Aged About 32 Years, R/o-Plot No. 15 Sitaram Colony Third Pratap Nagar Sector 11 Sanganer District Jaipur.

-----Petitioner

Versus

- 1 State Of Rajasthan, Through Director And Joint Secretary To Government, Directorate Of Economics And Statistics, Rajasthan, Yojna Bhawan Tilak Marg Jaipur.
- 2 Joint Director (Administration), Directorate Of Economics And Statistics, Rajasthan, Yojna Bhawan Tilak Marg Jaipur.
- 3 Principal Secretary, Department Of Personnel, Government Secretariat Jaipur.

-----Respondents

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| For Petitioner(s) | : | Mr. Krishan Sharma with<br>Mr. Pawan Sharma & Mr. Vaibhav Pancholy.                                                                              |
| For Respondent(s) | : | Ms. Minakshi Jain, G.C. with<br>Ms. Supriya Rana.<br>Dr. Pushpendra Pal Singh with Mr.<br>Pushpendra Singh, for Intervenor –<br>Sh. Chandrakant. |

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**HON'BLE DR. JUSTICE NUPUR BHATI**  
**Order**

**16/03/2026**

1. This writ petition has been filed by the petitioner with the following reliefs:

“(i) That Writ Petition may kindly be allowed and order dated 13/06/2024 (Annx.16) may kindly be quashed and set aside and respondents be directed to reinstate the petitioner on the post of Sanganak with all consequential benefits in the interest of Justice.

(ii) Any other appropriate order, which this Hon'ble court deems just and proper in the facts and circumstances of the case, may kindly be passed in favour of the petitioner.”



2. Brief facts of the case are that the father of the petitioner was a Government servant who passed away while in service on 14.11.2020 due to the coronavirus. Thereafter, the petitioner submitted an application for compassionate appointment in the prescribed format on 09.02.2021 (Annex.2) and was subsequently appointed to the post of Sanganak vide order dated 21.09.2021 issued by the Directorate of Economics and Statistics. Pursuant to the said order, the petitioner joined his duties in the office of the Block Chief Medical Officer, Viratnagar, District Jaipur on 01.10.2021. It is submitted that a matrimonial dispute arose between the petitioner's sister and her husband, Chandrakant, and owing to the said dispute, Chandrakant made complaints to the respondents with mala fide intentions. Acting upon such complaints, the respondents, without issuing any show cause notice to the petitioner and without affording him any opportunity of hearing, passed the impugned order dated 13.06.2024 (Annex.16), whereby the appointment of the petitioner has been cancelled. Hence, the present writ petition.

3. Learned counsel for the petitioner submits that the petitioner's father passed away on 14.11.2020 while in Government service and thereafter, the petitioner submitted an application dated 09.02.2021 (Annex.2) seeking compassionate appointment under the applicable rules. He submits that pursuant to the said application, the petitioner was appointed to the post of Sanganak vide order dated 21.09.2021, however, on the basis of a complaint, the respondents passed the impugned order dated 13.06.2024 (Annex.16) cancelling the petitioner's appointment on



the allegation that the petitioner had furnished false documents regarding the date of marriage of his sister, Jai Mala.

4. Learned counsel for the petitioner places reliance upon the order dated 02.02.2021 passed by a Coordinate Bench of this Court in ***Tarun Kumar Jain Vs. State of Rajasthan & Ors., S.B. Civil Writ Petition No.16912/2017***. He submits that in similar circumstances, the Coordinate Bench allowed the writ petition while taking into consideration the amended Rule 5 of the Rajasthan Compassionate Appointment of Dependents of Deceased Government Servant Rules, 1996 (hereinafter referred to as "the Rules of 1996"). It is submitted that Rule 5 was amended vide notification dated 08.04.2015, whereby the expression "at the time of death of the Government servant" was substituted by the expression "at the time of death of the Government servant or at the time of appointment of the dependent." Learned counsel submits that in the present case, the petitioner's sister admittedly got married on 04.02.2021 and is employed in Government service.

5. Learned counsel further submits that the State had preferred ***D.B. Special Appeal (Writ) No.950/2021 (State of Rajasthan & Ors. Vs. Tarun Kumar Jain)*** challenging the judgment dated 02.02.2021 passed by the learned Single Judge in Tarun Kumar Jain (supra), however, the said appeal came to be dismissed by the Hon'ble Division Bench of this Court vide order dated 01.11.2022.

6. Counsel submits that in view of the amended Rule 5 of the Rules of 1996, the relevant consideration is whether any member of the family was in Government service at the time of



appointment of the dependent, therefore, even if the petitioner's sister – Jai Mala – was in Government service, the same would not disentitle the petitioner from seeking compassionate appointment, particularly when she had already been married on 04.02.2021, whereas the petitioner was appointed on 21.09.2021 (Annex.2).

7. It is thus submitted that in light of the amended provisions of Rule 5 of the Rules of 1996, the respondents have wrongly cancelled the petitioner's appointment

8. Learned counsel for the respondent–State fairly submits that the issue involved in the present writ petition is squarely covered by the judgment in Tarun Kumar Jain (supra) and fairly points out that the appeal preferred against the said judgment has already been dismissed by the Hon'ble Division Bench.

9. Learned counsel appearing for the intervenor, Shri Chandrakant, who was permitted to intervene by a Coordinate Bench of this Court vide order dated 28.07.2025, opposes the submissions made on behalf of the petitioner. He submits that the petitioner, for the purpose of obtaining appointment, furnished incorrect documents indicating the date of marriage of his sister as 04.02.2021, whereas in the marriage certificate issued on 09.02.2021, the date of marriage was mentioned as 04.02.2020.

10. In response to the aforesaid submission, learned counsel for the petitioner submits that an application seeking correction of the marriage date was filed, as the said date was erroneously recorded. He further draws the attention of this Court to the charge-sheet (Annex.11) filed against the intervenor, who is the husband of the petitioner's sister, under Section 498-A of IPC,



wherein the date of marriage has also been reflected as 04.02.2021.

11. I have considered the submissions made by learned counsel for the respective parties and have perused the material available on record.

12. For ready reference, the relevant paragraphs of the judgment rendered in Tarun Kumar Jain (supra) are reproduced hereunder:

"5. Petitioner was to be considered as a dependent of the deceased Government servant who expired on 14.05.2015 and amendment in Rule 5 of Rules 1996 had already come into force w.e.f. 08.04.2015, thus the expression of Rule 5 stood amended. The amended Rule 5 of the Rules of 1996 which reads as under:-

"In Rule 5 of the Rajasthan Compassionate Appointment of Dependents of Deceased Government Servants Rules, 1996, for the existing expression "at the time of death of the Government servant", the expression "at the time of death of the Government servant" or at the time of appointment of the dependent" shall be substituted."

6. Perusal of above, it is apparent that the Rule making authority clearly made that benefit is otherwise available to the dependent should not be taken away merely because of any dependent who has already in government service but is no more dependent amongst the family members. On an interpretation as drawn above, it is apparent that the petitioner was sole dependent alongwith his mother and two sons. All the four daughters including the unmarried daughter stood already married and would not be an embargo in terms of Rule 5 of Rule of 1996 forgiving appointment to the dependent. At the time of appointment of dependent the married daughters cannot be said to be considered for the purpose of denying such appointment.

7. Accordingly, this writ petition is allowed. The respondents are directed to consider the case of the petitioner for compassionate appointment and grant the same if he is otherwise found eligible. Age relaxation in this regard may also be given due to pendency of the case. The exercise shall be conducted within a period of two months.

8. All pending applications stands disposed of. "



13. The order dated 01.11.2022 passed by the Hon'ble Division Bench of this Court dismissing the appeal preferred against the aforesaid judgment in the case Tarun Kumar Jain (supra), reads as under:

"1. Heard Mr. Anil Mehla, learned Additional Advocate General for the appellants-State.

2. The judgment and order dated 02.02.2021 passed by learned Single Judge deciding S.B. Civil Writ Petition No.16912/2017 is under challenge in this appeal.

3. The Writ Court by the said judgment and order has directed the State authorities to consider the case of the petitioner-respondent for compassionate appointment and to grant the same, if he is otherwise found eligible after giving due age relaxation. The Writ Court has not straightaway directed for the grant of compassionate appointment, rather has directed it to be considered and to grant if the petitioner-respondent is otherwise eligible. 4. The submission of learned counsel for the appellant is that under Rule 5 of the Rajasthan Compassionate Appointment of Dependents of Deceased Government Servant Rules, 1996, the petitioner is not entitled for any compassionate appointment as at the time of the death of his father, one of his sisters was unmarried and in government service.

5. Rule 5 of the aforesaid Rules has undergone an amendment and it provides that in case where spouse or at least one of the sons or unmarried daughters is already employed on regular basis under the Central or State Government or any statutory board, organization, owned and controlled by the Central or State Government at the time of appointment of the dependant, he will not be considered for such appointment.

6. The use of the phrase "at the time of the appointment of the dependant" is crucial and material, inasmuch as in the present case on the date of consideration of the application for compassionate appointment, none of the daughters of the deceased was unmarried.

7. In view of the aforesaid facts and circumstances, we find no error or illegality in the judgment and order passed by the Writ Court. Moreover, it simply directs for consideration of the case of the petitioner for compassionate appointment.

8. In view of the above, the appeal lacks merit and is dismissed."



14. This Court has also taken into consideration the amended Rule 5 of the Rules of 1996, which came into force vide notification dated 08.04.2015. The amended provision reads as under:

“In Rule 5 of the Rajasthan Compassionate Appointment of Dependents of Deceased Government Servants Rules, 1996, for the existing expression “at the time of death of the Government servant”, the expression “at the time of death of the Government servant” or at the time of appointment of the dependent” shall be substituted.”

15. By virtue of the aforesaid amendment, the legislative intent is clear that the relevant consideration for determining eligibility for compassionate appointment is not confined only to the status of family members at the time of death of the Government servant, but also extends to the position prevailing at the time of appointment of the dependent.

16. This Court also takes note of the submission made by learned counsel for the respondent–State that the issue involved in the present writ petition is squarely covered by the judgment rendered in Tarun Kumar Jain (supra). In the present case, it is not in dispute that the petitioner’s sister – Jai Mala was got married on 04.02.2021, whereas the petitioner was granted appointment on 21.09.2021. Even if, for the sake of argument, the petitioner’s sister Jaimala’s date of marriage is taken as 04.02.2020, as recorded in the marriage certificate, the respondents could not have terminated the petitioner’s services on that basis. This is because, under the amended Rule 5 of the Rules of 1996, a dependent is disqualified only if another dependent is a Government servant either at the time of the Government



servant's death or at the time of the dependent's appointment. In the present case, as discussed above, the petitioner was appointed on compassionate grounds on 21.09.2021. Admittedly, even assuming Jaimala was married on 04.02.2020, there is no basis to conclude that she was in Government employment on the date the petitioner was granted appointment. Thus, at the time of the petitioner's appointment, his sister was already married and therefore could not have been considered a dependent member of the family so as to disentitle the petitioner from compassionate appointment. In view of the amended Rule 5 of the Rules of 1996 and the law laid down in Tarun Kumar Jain (supra), the cancellation of the petitioner's appointment on the ground that the petitioner has been granted the appointment on the basis of wrong date of marriage of his sister (Smt. Jayamala) (Annex-16) is clearly unsustainable.

17. Consequently, the writ petition deserves to be allowed. The impugned order dated 13.06.2024 (Annex.16) is hereby quashed and set aside. The respondents are directed to reinstate and continue the petitioner on the post granted to him under compassionate appointment forthwith along with all consequential benefits, preferably within a period of four weeks from the date of receipt of a certified copy of this order.

18. Pending application(s), if any, also stand disposed of.

**(DR.NUPUR BHATI),J**

*S.Sharma- 58 /-*