

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S. B. Civil Writ Petition No. 16236/2024

Amar Singh Meena S/o Late Shri Chhail Bihari Meena, aged about 24 years, R/o VPO Khilchipur, Tehsil & Post Sawaimadhopur

-----Petitioner

Versus

1. State of Rajasthan, through Principal Secretary, Department of Education, Government of Rajasthan, Government Secretariat, Jaipur.
2. The Director Elementary Education, Rajasthan Bikaner.
3. District Education Officer (HQ), Elementary Education, Jaisalmer
4. Zila Parishad Jaisalmer, through Chief Executive Officer

-----Respondents

For Petitioner : Mr. Mahendra Sharma Advocate.

HON'BLE MR. JUSTICE ANAND SHARMA

Judgment

12/03/2026

1. Present writ petition has been filed seeking issuance of direction to the respondents to grant compassionate appointment to the petitioner on account of the death of the petitioner's father, who was serving as Teacher Grade-III with the respondents. The petitioner contends that the family suffered financial hardship upon the demise of the deceased employee and that the denial of compassionate appointment is arbitrary and unjust.
2. Learned counsel for the petitioner submitted that Late Shri Chhail Bihari Meena, father of the petitioner was working on the substantive post of Teacher Grade-III in Government Primary School, Chodhriya District Jaisalmer. However, he expired on

18.04.2013 while in service. At the time of death of father of the petitioner, he was aged about 13 years only.

3. After death of petitioner's father, vide order dated 16.06.2014, the mother of the petitioner (widow of deceased employee) was offered appointment on compassionate ground on the post of Class IV Employee by the respondents, but she did not join her duties.

4. After attaining the age of majority, the petitioner submitted application dated 01.07.2022 through his mother seeking appointment on compassionate ground along with all other documents. The said application was forwarded vide letter dated 07.12.2022 by the Divisional Joint Director (School Education) to the Director, Elementary Education, Bikaner, Rajasthan. However, claim of the petitioner seeking appointment on compassionate ground was dismissed by the respondents vide orders dated 26.03.2024 and 30.04.2024. Hence, the petitioner has approached this Court by way of filing instant writ petition. It is submitted that the action of the respondents in declining benefit of appointment on compassionate ground to the petitioner is unjustified, unwarranted and violative of Article 21 of the Constitution of India. Learned counsel for the petitioner argued that when the compassionate appointment rules entitles the petitioner for compassionate appointment for saving the family of deceased employee from starvation, there is no justification in not providing the same to the petitioner, dependent of the deceased employee. Therefore, learned counsel for the petitioner has prayed for allowing the writ petition as also issuance of direction

to the respondents for grant of appointment to the petitioner on compassionate ground.

5. I have heard learned counsel for the petitioner and carefully perused the material on record.

6. Perusal of the material on record would reveal that claim of the petitioner for appointment on compassionate ground has been declined by the respondents for the reason that the claim of the petitioner seeking appointment on compassionate ground was hopelessly barred by time.

7. The relevant facts, which are not in dispute, disclose that the deceased employee died in harness on 18.04.2013 several years prior to the filing of the present writ petition. It is an admitted position that no immediate claim for compassionate appointment was pursued by the petitioner and the present writ petition has been instituted after a substantial and unexplained lapse of time.

8. The central issue that arises for consideration is whether a claim for compassionate appointment can be sustained after a long and unexplained delay and whether such a claim survives the settled legal principles governing compassionate appointment under public service jurisprudence.

9. At the outset, it must be reiterated that compassionate appointment is not a matter of right, nor an alternative mode of recruitment. It constitutes a narrowly carved exception to the general rule of public employment under Articles 14 and 16 of the Constitution of India, intended solely to provide immediate financial assistance to the family of a deceased employee who dies in harness, leaving the family in sudden penury. The underlying

purpose is to mitigate an unforeseen financial crisis and to ensure that the family is not left without means of subsistence.

10. The Hon'ble Supreme Court in the case of **Sushma Gosain & Others vs Union of India & Others, (1989) 4 SCC 468**, authoritatively held that compassionate appointment must be provided without delay, as the very rationale of the scheme is to relieve the family from immediate destitution caused by the death of the sole breadwinner. The Hon'ble Supreme Court emphasised that appointments should be made promptly and that the creation of supernumerary posts, if necessary, is permissible to serve the humanitarian purpose of the scheme. However, the Hon'ble Supreme Court also cautioned that undue delay defeats the very object of compassionate appointment, rendering such claims unsustainable.

11. In the case of **Umesh Kumar Nagpal vs State of Haryana & Others, (1994) 4 SCC 138**, the Hon'ble Supreme Court explained that compassionate appointment is an exception to the general rule of public employment and is intended *solely* to enable the family of a deceased employee, left in dire financial straits, to tide over the *immediate* financial crisis caused by the sudden death of the breadwinner. It is not a source of permanent recruitment or a vested right that can be exercised at any time in the future. The Hon'ble Supreme Court held that mere death in service does not automatically entitle the family to compassionate employment, and that compassionate appointment cannot be granted after the lapse of a reasonable period, because after such delay the very purpose of providing immediate relief is lost. The entitlement, thus, depends on immediacy of need and the financial

condition of the family at the time of the employee's death, not on abstract entitlement.

12. The above legal position has been reiterated and fortified in subsequent decisions. In the case **V. Sivamurthy vs State of Andhra Pradesh & Others, (2008) 13 SCC 730**, the Hon'ble Supreme Court held that compassionate appointment is an exception designed to meet a transient crisis and cannot be invoked years after the death of the employee. The Court categorically observed that when a family survives for a long period after the demise of the employee, it must be presumed that the immediate financial crisis no longer exists. Claims raised after considerable delay, therefore, cannot be entertained, as they convert a humanitarian exception into a vested employment entitlement, which is impermissible in law.

13. More recently, in **State of West Bengal v. Debabrata Tiwari & Others, (2025) 5 SCC 712**, after having regard to the object of granting compassionate appointment, the Hon'ble Supreme Court reaffirmed that prolonged delay, whether attributable to the claimant or to administrative inaction, creates a strong presumption that the family has overcome the initial financial hardship. The Court held that compassionate appointment cannot be granted as a matter of course after years have elapsed and such belated claims are non-maintainable unless exceptional circumstances are demonstrated. It was further held that no vested right accrues to a dependent merely because an application was once made. Para 32, 33, 35 to 46 of the above judgment are relevant and quoted as under:-

"32. On consideration of the aforesaid decisions of this Court, the following principles emerge:

32.1. That a provision for compassionate appointment makes a departure from the general provisions providing for appointment to a post by following a particular procedure of recruitment. Since such a provision enables appointment being made without following the said procedure, it is in the nature of an exception to the general provisions and must be resorted to only in order to achieve the stated objectives i.e. to enable the family of the deceased to get over the sudden financial crisis.

32.2. Appointment on compassionate grounds is not a source of recruitment. The reason for making such a benevolent scheme by the State or the public sector undertaking is to see that the dependants of the deceased are not deprived of the means of livelihood. It only enables the family of the deceased to get over the sudden financial crisis.

32.3. Compassionate appointment is not a vested right which can be exercised at any time in future. Compassionate employment cannot be claimed or offered after a lapse of time and after the crisis is over.

32.4. That compassionate appointment should be provided immediately to redeem the family in distress. It is improper to keep such a case pending for years.

32.5. In determining as to whether the family is in financial crisis, all relevant aspects must be borne in mind including the income of the family, its liabilities, the terminal benefits if any, received by the family, the age, dependency and marital status of its members, together with the income from any other source.

33. The object underlying a provision for grant of compassionate employment is to enable the family of the deceased employee to tide over the sudden crisis due to the death of the breadearner which has left the family in penury and without any means of livelihood. Out of pure humanitarian consideration and having regard to the fact that unless some source of livelihood is provided, the family would not be in a position to make both ends meet, a provision is made for giving gainful appointment to one of the dependants of the deceased who may be eligible for such appointment. Having regard to such an object, it would be of no avail to grant compassionate appointment to the dependants of the deceased employee, **after** the crisis which arose on account of death of a breadwinner, has been overcome. Thus, there is also a compelling need to act with a sense of immediacy in matters concerning compassionate appointment because on failure to do so, the object of the scheme of compassionate appointment would be frustrated. Where a long lapse of time has occurred since the date of death of the deceased employee, the sense of immediacy for seeking compassionate appointment would cease to exist and thus lose its significance and this would be a relevant circumstance which must weigh with the authorities in determining as to whether a case for the grant of compassionate appointment has been made out for consideration.

34. xxxxxx

35. *Considering the second question referred to above, in the first instance, regarding whether applications for compassionate appointment could be considered after a delay of several years, we are of the view that, in a case where, for reasons of prolonged delay, either on the part of the applicant in claiming compassionate appointment or the authorities in deciding such claim, the sense of immediacy is diluted and lost. Further, the financial circumstances of the family of the deceased, may have changed, for the better, since the time of the death of the government employee. In such circumstances, courts or other relevant authorities are to be guided by the fact that for such prolonged period of delay, the family of the deceased was able to sustain themselves, most probably by availing gainful employment from some other source. Granting compassionate appointment in such a case, as noted by this Court in Hakim Singh Haryana SEB v. Hakim Singh, (1997) 8 SCC 85 would amount to treating a claim for compassionate appointment as though it were a matter of inheritance based on a line of succession which is contrary to the Constitution. Since compassionate appointment is not a vested right and the same is relative to the financial condition and hardship faced by the dependants of the deceased government employee as a consequence of his death, a claim for compassionate appointment may not be entertained after lapse of a considerable period of time since the death of the government employee.*

36. *Laches or undue delay, the blameworthy conduct of a person in approaching a Court of Equity in England for obtaining discretionary relief which disentitled him for grant of such relief was explained succinctly by Sir Barnes Peacock, in Lindsay Petroleum Co. v. Prosper Armstrong Hurd, (1874) LR 5 PC 221 as under : (LR pp. 239-40)*

"Now the doctrine of laches in Courts of Equity is not an arbitrary or a technical doctrine. Where it would be practically unjust to give a remedy, either because the party has, by his conduct, done that which might fairly be regarded as equivalent to a waiver of it, or where by his conduct and neglect he has, though perhaps not waiving that remedy, yet put the other party in a situation, in which it would not be reasonable to place him if the remedy were afterwards to be asserted, in either of these cases, lapse of time and delay are most material. But in every case, if an argument against relief, which otherwise would be just, is founded upon mere delay, that delay of course not amounting to a bar by any statute of limitations, the validity of that defence must be tried upon principles substantially equitable. Two circumstances, always important in such cases, are, the length of the delay and the nature of the acts done during the interval, which might affect either party and cause a balance of justice or injustice in taking the one course or the other, so far as it relates to the remedy."

37. *Whether the above doctrine of laches which disentitled grant of relief to a party by Equity Court of England, could disentitle the grant of relief to a person by the High Court in the exercise of its power under Article 226 of our Constitution, came up for consideration before a Constitution Bench of this Court in Moon Mills Ltd. v. M.R. Meher, 1967 SCC OnLine SC 117. In the said case, it was regarded as a principle that disentitled a party for grant of relief from a High Court in the exercise of its discretionary power under Article 226 of the Constitution.*

38. *In State of M.P. v. Nandlal Jaiswal, (1986) 4 SCC 566 this Court restated the principle articulated in earlier pronouncements in the following words : (SCC pp. 594-95, para 24)*

24. ... the High Court in exercise of its discretion does not ordinarily assist the tardy and the indolent or the acquiescent and the lethargic. If there is inordinate delay on the part of the petitioner and such delay is not satisfactorily explained, the High Court may decline to intervene and grant relief in exercise of its writ jurisdiction. It was stated that this Rule is premised on a number of factors. The High Court does not ordinarily permit a belated resort to the extraordinary remedy because it is likely to cause confusion and public inconvenience and bring, in its train new injustices, and if writ jurisdiction is exercised after unreasonable delay, it may have the effect of inflicting not only hardship and inconvenience but also injustice on third parties. It was pointed out that when writ jurisdiction is invoked, unexplained delay coupled with the creation of third-party rights in the meantime is an important factor which also weighs with the High Court in deciding whether or not to exercise such jurisdiction.

39. *While we are mindful of the fact that there is no period of limitation provided for filing a writ petition under Article 226 of the Constitution, ordinarily, a writ petition should be filed within a reasonable time, vide Jagdish Lal v. State of Haryana, (1997) 6 SCC 538; NDMC v. Pan Singh, (2007) 9 SCC 278.*

40. *Further, simply because the respondent-writ petitioners submitted their applications to the relevant authority in the year 2005-2006, it cannot be said that they diligently pursued the matter and had not slept over their rights. In this regard, it may be apposite to refer to the decision of this Court in State of Uttaranchal v. Shiv Charan Singh Bhandari, (2013) 12 SCC 179, wherein the following observations were made: (SCC p. 184, para 19)*

"19. From the aforesaid authorities it is clear as crystal that even if the court or tribunal directs for consideration of representations relating to a stale claim or dead grievance it does not give rise to a fresh cause of action. The dead cause of action cannot rise like a phoenix. Similarly, a mere submission of representation to the competent authority does not arrest time."

(emphasis supplied)

41. Applying the said ratio to the facts of the present case, we hold that the respondent-writ petitioners, upon submitting their applications in the year 2006-2005 did nothing further to pursue the matter, till the year 2015 i.e. for a period of ten years. Notwithstanding the tardy approach of the authorities of the appellant State in dealing with their applications, the respondent-writ petitioners delayed approaching the High Court seeking a writ in the nature of a mandamus against the authorities of the State. In fact, such a prolonged delay in approaching the High Court, may even be regarded as a waiver of a remedy, as discernible by the conduct of the respondent-writ petitioners. Such a delay would disentitle the respondent-writ petitioners to the discretionary relief under Article 226 of the Constitution. Further, the order of the High Court dated 17-3-2015 [Debabrata Tiwari v. State of W.B., WPA No. 3243 of 2015, order dated 17-3-2015 (Cal)], whereby the writ petition filed by some of the respondents herein was disposed of with a direction to the Director of Local Bodies, Government of West Bengal to take a decision as to the appointment of the respondent-writ petitioners, cannot be considered to have the effect of revival of the cause of action.

42. It may be apposite at this juncture to refer to the following observations of this Court in *Malaya Nanda Sethy v. State of Orissa*, (2024) 15 SCC 766, as to the manner in which the authorities must consider and decide applications for appointment on compassionate grounds: (SCC paras 14-16)

"14. Before parting with the present order, we are constrained to observe that considering the object and purpose of appointment on compassionate grounds i.e. a family of a deceased employee may be placed in a position of financial hardship upon the untimely death of the employee while in service and the basis or policy is immediacy in rendering of financial assistance to the family of the deceased consequent upon his untimely death, the authorities must consider and decide such applications for appointment on compassionate grounds as per the policy prevalent, at the earliest, but not beyond a period of six months from the date of submission of such completed applications.

15. We are constrained to direct as above as we have found that in several cases, applications for appointment on compassionate grounds are not attended in time and are kept pending for years together. As a result, the applicants in several cases have to approach the High Courts concerned seeking a writ of mandamus for the consideration of their applications. Even after such a direction is issued, frivolous or vexatious reasons are given for rejecting the applications. Once again, the applicants have to challenge the order of rejection before the High Court which leads to pendency of litigation and passage of time, leaving the family of the employee who died in harness in the lurch and in financial difficulty. Further, for reasons best known to the authorities and on irrelevant considerations, applications made for compassionate appointment are rejected. After

several years or are not considered at all as in the instant case.

16. If the object and purpose of appointment on compassionate grounds as envisaged under the relevant policies or the rules have to be achieved then it is just and necessary that such applications are considered well in time and not in a tardy way. We have come across cases where for nearly two decades the controversy regarding the application made for compassionate appointment is not resolved. This consequently leads to the frustration of the very policy of granting compassionate appointment on the death of the employee while in service. We have, therefore, directed that such applications must be considered at an earliest point of time. The consideration must be fair, reasonable and based on relevant consideration. The application cannot be rejected on the basis of frivolous and for reasons extraneous to the facts of the case. Then and then only the object and purpose of appointment on compassionate grounds can be achieved.”

(emphasis supplied)

43. In *Malaya Nanda Sethy* case, the claim of the appellant-applicant therein for compassionate appointment was directed by this Court to be considered by the competent authority. This Court noted that in the said case, there was no lapse on the part of the appellant-applicant therein in diligently pursuing the matter. The delay in considering the application of the appellant therein was held to be solely attributable to the authorities of the State, and no part of it was occasioned by the appellant-applicant. Further, in the said case, the appellant-applicant was prejudiced not only because of the prolonged delay in considering his application but also by the fact that in the interim, the policy of the State governing compassionate appointment had changed to his detriment. Therefore, the facts of the said case were distinct from the facts involved herein. In the present case, the conduct of the respondent-writ petitioners cannot be said to be blameless in that they did not pursue their matter with sufficient diligence. However, the observations made in the said case as to the manner in which applications for compassionate appointment are to be considered and disposed of are relevant to the present case.

44. As noted in *Malaya Nanda Sethy* case, the operation of a policy/scheme for compassionate appointment is founded on considerations of immediacy. A sense of immediacy is called for not only in the manner in which the applications are processed by the authorities concerned but also in the conduct of the applicant in pursuing his case, before the authorities and if needed before the courts.

45. In the present case, the applications for compassionate appointment were made by the respondent-writ petitioners in the year 2005-2006. Admittedly, the first concrete step taken by the Chairman of Burdwan Municipality was in the year 2013, when the said authority forwarded a list of candidates to be approved by the Director of Local Bodies, Burdwan

Municipality. The respondent-writ petitioners knocked on the doors of the High Court of Calcutta only in the year 2015 i.e. after a lapse of nearly ten years from the date of making the application for compassionate appointment. The respondent-writ petitioners were not prudent enough to approach the courts sooner, claiming that no concrete step had been taken by the appellant State in furtherance of the application by seeking a writ in the nature of mandamus.

46. *The sense of immediacy in the matter of compassionate appointment has been lost in the present case. This is attributable to the authorities of the appellant State as well as the respondent-writ petitioners. Now, entertaining a claim which was made in 2005-2006, in the year 2023, would be of no avail, because admittedly, the respondent-writ petitioners have been able to eke out a living even though they did not successfully get appointed to the services of the Municipality on compassionate grounds. Hence, we think that this are therefore not fit cases to direct that the claim of the respondent-writ petitioners for appointments on compassionate grounds, be considered or entertained."*

14. Applying the aforesaid principles to the facts of the present case, this Court finds that the petitioner has approached this Court after a long lapse of time. The very fact that the family has managed to subsist for several years after the death of the employee clearly indicates that the immediate financial crisis, which alone justifies compassionate appointment, no longer subsists.

15. This Court cannot lose sight of the fact that granting compassionate appointment after such a prolonged delay would amount to converting a welfare-oriented exception into a regular source of employment, thereby violating the constitutional mandate of equal opportunity in public employment. The Hon'ble Supreme Court has consistently deprecated such an approach and has cautioned that compassionate appointment must not be allowed to become a parallel mode of recruitment.

16. The contention of the petitioner that rejection of the claim is arbitrary cannot be accepted. Adherence to the settled

legal principles governing compassionate appointment is neither arbitrary, nor unreasonable. On the contrary, granting relief in the present case would run counter to the law declared by the Hon'ble Supreme Court and would undermine the very purpose of the scheme.

17. In view of the foregoing discussion, this Court is of the considered opinion that the claim of the petitioner for compassionate appointment is barred by inordinate and unexplained delay and is wholly unsustainable in law. The respondents have committed no illegality or arbitrariness in rejecting claim of the petitioner claiming appointment on compassionate ground.

18. Accordingly, the writ petition is dismissed.

19. Pending interim applications, if any, stand disposed off.

(ANAND SHARMA),J