HIGH COURT OF MADHYA PRADESH

BENCH GWALIOR

SINGLE BENCH:

HON. SHRI JUSTICE G.S. AHLUWALIA

Writ Petition No.3256/2010

.....Petitioner: Sunil Raghuvanshi

Versus

.....Respondents: State of M.P. and another

Shri K.B. Chaturvedi, Senior Advocate with Shri G.P. Chaurasiya, Advocate for petitioner.

Shri Vivek Jain, Government Advocate for respondents/State.

Date of hearing : 24/01/2019

Date of Order : 24/01/2019

Whether approved for reporting : Yes

Law laid down:

Significant paragraphs:

O R D E R

(24/01/2019)

Per Justice G.S. Ahluwalia,

This petition under Article 226 of the Constitution of India has been filed against the order dated 5/4/2010 passed by the Collector, Guna in file No.462/EST/6-2/48/2005, by which the application filed by the petitioner for appointment on compassionate ground has been rejected on the ground that the elder brother of the petitioner is already in Government job,

therefore, in the light of the policy dated 18/8/2008, the petitioner is not eligible for appointment on compassionate ground.

The necessary facts for disposal of the present petition in short are that the father of the petitioner, namely, Arjun Singh Raghuvanshi was working on the post of Assistant Grade-II, who died in harness on 20/5/2005. The petitioner filed an application for appointment on compassionate ground on 6/6/2005 and at the time of death of the father of the petitioner, policy dated 1/5/2000 was in vogue. The claim of the petitioner is that as the application for appointment on compassionate ground was rejected by respondent no.2 ignoring the policy dated 1/5/2000, therefore, the petitioner filed a writ petition before this Court, which was registered as Writ Petition No.3774/2007 (s) and the said writ petition was allowed by order dated 22/7/2009 and order dated 13/7/2007 passed by respondent no.2 was quashed and the following order was passed:-

> "Resultantly, without commenting upon the merits of the case, as this Court is of the considered opinion that the policy issued in the year 2007 has wrongly been applied in the case of petitioner, the impugned order dated 13/07/2007 passed by the respondent/Collector is hereby set aside. The matter is remitted back to the respondent/Collector to consider the case of the petitioner afresh taking into consideration the earlier policy issued by the State Government dated 01/05/2000 enclosed as Annexure P/26. The aforesaid exercise of considering the case of the petitioner and passing a fresh order as per policy dated 01/05/2000 shall be concluded within a period

> of 90 days from the date of receipt of a certified copy of this order.
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> With aforesaid the writ petition stands allowed. No order as to costs."

It is submitted that thereafter the matter was reconsidered by the respondents. The claim of the petitioner has been once again rejected by considering the policy dated 22/1/2007 and 18/8/2008, whereas the direction given by this Court was to consider the policy, which was in force on the date of death of the father of the petitioner. It is submitted by the counsel for the petitioner that the order under challenge is bad in the light of the earlier order passed by this Court. It is further submitted that once the matter was finally adjudicated by this Court by holding that the policy, which was in vogue on the date of death of the father of the petitioner would be applicable, therefore, the principle of *res judicata* would apply and the respondents cannot travel beyond the directions given by this Court. To buttress his contentions, the counsel for the petitioner has relied upon the judgment passed by the Supreme Court in the case of **Subramanian Swamy Vs. State of Tamil Nadu** reported in **(2014) 5 SCC 75.**

Per contra, it is submitted by the counsel for the State that it is well established principle of law that the policy which was in vogue at the time of consideration of the application for compassionate appointment would be relevant and thus, the respondents have not committed any mistake in rejecting the claim of the petitioner on the ground that he is not eligible for

appointment on compassionate ground, as his elder brother is already in Government job. It is further submitted that earlier there were two views; according to one view, the policy which was in vogue on the date of death of a Government employee was crucial for determining the claim of the dependent for appointment on compassionate ground and another view was that the policy which is in vogue at the time of consideration of the application, would be material, and accordingly, the matter was referred to the Full Bench of this Court, which by judgment passed in the case of **Bank of Maharashtra and another Vs. Manoj K. Deharia and another** reported in **2010 (3) MPLJ 213** had held that the policy which was in vogue on the date of consideration of application for compassionate appointment would be applicable. However, thereafter, there were some diversant views in the light of the judgment passed by the Supreme Court in the case of **Canara Bank and another Vs. M. Mahesh Kumar** reported in **(2015) 7 SCC 412** and accordingly, the matter was considered by the Full Bench of this Court and the controversy has been rest to peace by judgment passed by this Court in the case of **State of M.P. and others Vs. Laxman Prasad Raikwar** reported in **2018 (4) MPLJ 657**.

Heard learned counsel for the parties.

The question that whether the policy in existence on the date of death of a Government employee or the policy which is in

existence on the date of consideration of the application for compassionate ground would be applicable, is no more *res integra.* The Full Bench of this Court by judgment passed in the case of **Laxman Prasad Raikwar (supra)** has held as under:-

> "8. In the case of Canera Bank Vs. M. Mahesh Kumar (Supra), the Bank has challenged the order passed by the High Court directing for consideration on the application for compassionate appointment as per scheme dying in "harness scheme, 1993". The Apex Court has taken note of the facts that initially there was a scheme of compassionate appointment under "dying in harness scheme" issued by Circular No. 154/1993 w.e.f. 01.05.1993. The claim was resisted by the Bank on the ground that the financial condition of family members of the deceased employee was good and the said scheme was replaced with the scheme dated 14.02.2015 (HO Circular No. 35/2005) whereby the scheme of compassionate appointment was scrapped and in lieu of the same a new scheme of ex-gratia payment was introduced. However, the scheme of 2005 was also superseded by Scheme of 2014 which has revived the scheme providing for compassionate appointment. In para -14 of the judgment in Canara Bank (Supra) it was noted that the scheme of compassionate appointment was revived and therefore, it was held that the Bank was not justified in contending that the application for compassionate appointment of the respondent cannot be considered in view of passage of time. Thus the judgment passed by the Apex Court in the case of Canara Bank (Supra) is on consideration of the fact that the scheme for compassionate appointment was again introduced and revived.
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> 9. In view of the aforesaid, we follow the ratio laid down by the Full Bench of this Court in the case of Bank of Maharasthra Vs. Manoj Kumar Dehria (Supra) and the reference is answered that compassionate appointment

> can not be claimed as a matter of right as it is not a vested right and the policy prevailing at the time of consideration of the application for compassionate appointment would be applicable."

Now the next question for consideration in the present case is that - "what would be the effect of the order dated 22/7/2009 passed by this Court in W.P. No.3774/2007 (s), by which the respondents were directed to consider the case of the petitioner in the light of the policy, which was in force on the date of death of the father of the petitioner?"

It is submitted by the counsel for the petitioner that the principle of *res judicata* would apply and since the controversy between the parties has been put to rest by directing the respondents to consider the policy which was in vogue on the date of death of the father of the petitioner, therefore, the judgment passed by the Full Bench of this Court in the case of **Laxman Prasad Raikwar (supra)** would not make the situation different and still the respondents are under an obligation to consider the application of the petitioner in the light of the policy which was in vogue on the date of death of the father of the petitioner. It is further submitted the principle of *res judicata* is applicable to Writ Petitions filed under Article 32 or 226 of the Constitution of India also and once it was already directed by the Court in the first round of litigation that the policy which was in vogue on the date of death of the Government employee would prevail and the

application for grant of compassionate appointment should be considered on the basis of the said policy, therefore, the said judgment would apply as *res judicata.*

It is well established principle of law that the principle of prospective overruling of judgment, does not apply except where, it is specifically mentioned.

The Supreme Court in the case of **Sarwan Kumar and Another Vs. Madan Lal Aggarwal** reported in **(2003) 4 SCC 147** has held as under:-

> **"15.** For the first time this Court in *Golak Nath* v. *State of Punjab* accepted the doctrine of "prospective overruling". It was held: (AIR p. 1669, para 51)
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> > "*51*. As this Court for the first time has been called upon to apply the doctrine evolved in a different country under different circumstances, we would like to move warily in the beginning. We would lay down the following propositions: (*1*) The doctrine of prospective overruling can be invoked only in matters arising under our Constitution; (*2*) it can be applied only by the highest court of the country i.e. the Supreme Court as it has the constitutional jurisdiction to declare law binding on all the courts in India; (*3*) the scope of the retroactive operation of the law declared by the Supreme Court superseding its 'earlier decisions' is left to its discretion to be moulded in accordance with the justice of the cause or matter before it."
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> The doctrine of "prospective overruling" was initially made applicable to the matters arising under the Constitution but we understand the same has since been made applicable to the matters arising under the statutes as well. Under the doctrine of "prospective overruling" the law declared by the Court applies to the cases arising in future only and its applicability to the cases which have attained finality is saved because the

> repeal would otherwise work hardship on those who had trusted to its existence. Invocation of the doctrine of "prospective overruling" is left to the discretion of the Court to mould with the justice of the cause or the matter before the Court. This Court while deciding *Gian Devi Anand case* did not hold that the law declared by it would be prospective in operation. It was not for the High Court to say that the law laid down by this Court in *Gian Devi Anand case* would be prospective in operation. If this is to be accepted then conflicting rules can supposedly be laid down by different High Courts regarding the applicability of the law laid down by this Court in *Gian Devi Anand case* or any other case. Such a situation cannot be permitted to arise. In the absence of any direction by this Court that the rule laid down by this Court would be prospective in operation, the finding recorded by the High Court that the rule laid down in *Gian Devi Anand case* by this Court would be applicable to the cases arising from the date of the judgment of this Court cannot be accepted being erroneous."

The Supreme Court in the case of **M.A. Murthy Vs. State of Karnataka and Others** reported in **(2003) 7 SCC 517** has held as under:-

> **"8.** The learned counsel for the appellant submitted that the approach of the High Court is erroneous as the law declared by this Court is presumed to be the law at all times. Normally, the decision of this Court enunciating a principle of law is applicable to all cases irrespective of its stage of pendency because it is assumed that what is enunciated by the Supreme Court is, in fact, the law from inception. The doctrine of prospective overruling which is a feature of American jurisprudence is an exception to the normal principle of law, was imported and applied for the first time in *L.C. Golak Nath* v. *State of Punjab*. In *Managing Director, ECIL* v. *B. Karunakar* the view was adopted. Prospective overruling is a part of the principles of constitutional canon of interpretation and can be resorted to by this Court while superseding the law declared by it earlier. It is a device innovated

> to avoid reopening of settled issues, to prevent multiplicity of proceedings, and to avoid uncertainty and avoidable litigation. In other words, actions taken contrary to the law declared prior to the date of declaration are validated in larger public interest. The law as declared applies to future cases. (See *Ashok Kumar Gupta* v. *State of U.P.* and *Baburam* v. *C.C. Jacob*.) It is for this Court to indicate as to whether the decision in question will operate prospectively. In other words, there shall be no prospective overruling, unless it is so indicated in the particular decision. It is not open to be held that the decision in a particular case will be prospective in its application by application of the doctrine of prospective overruling. The doctrine of binding precedent helps in promoting certainty and consistency in judicial decisions and enables an organic development of the law besides providing assurance to the individual as to the consequences of transactions forming part of the daily affairs. That being the position, the High Court was in error by holding that the judgment which operated on the date of selection was operative and not the review judgment in *Ashok Kumar Sharma case No. II*. All the more so when the subsequent judgment is by way of review of the first judgment in which case there are no judgments at all and the subsequent judgment rendered on review petitions is the one and only judgment rendered, effectively and for all purposes, the earlier decision having been erased by countenancing the review applications. The impugned judgments of the High Court are, therefore, set aside."

The Supreme Court in the case of **K. Madhava Reddy and Others Vs. State of Andhra Pradesh and Others** reported in **(2014) 6 SCC 537** has held as under:-

> **"10.** We have heard the learned counsel for the parties at length. The doctrine of prospective overruling has its origin in American jurisprudence. It was first invoked in this country in *Golak Nath* v. *State of Punjab*, with this Court proceeding rather cautiously in applying the doctrine, was conscious of the fact that the

doctrine had its origin in another country and had been invoked in different circumstances. The Court sounded a note of caution in the application of the doctrine to the Indian conditions as is evident from the following passage appearing in *Golak Nath case* wherein this Court laid down the parameters within which the power could be exercised. This Court said: (AIR p. 1669, para 51)

"*51*. As this Court for the first time has been called upon to apply the doctrine evolved in a different country under different circumstances, we would like to move warily in the beginning. We would lay down the following propositions: (*1*) The doctrine of prospective overruling can be invoked only in matters arising under our Constitution; (*2*) it can be applied only by the highest court of the country i.e. the Supreme Court as it has the constitutional jurisdiction to declare law binding on all the courts in India; (*3*) the scope of the retroactive operation of the law declared by the Supreme Court superseding its 'earlier decisions' is left to its discretion to be moulded in accordance with the justice of the cause or matter before it."

11. It is interesting to note that the doctrine has not remained confined to overruling of earlier judicial decision on the same issue as was understood in *Golak Nath case*. In several later decisions, this Court has invoked the doctrine in different situations including in cases where an issue has been examined and determined for the first time. For instance in *India Cement Ltd.* v. *State of T.N.*, this Court not only held that the levy of the cess was ultra vires the power of the State Legislature brought about by an amendment to the Madras Village Panchayat Amendment Act, 1964 but also directed that the State would not be liable for any refund of the amount of that cess which has been paid or already collected. In *Orissa Cement Ltd.* v. *State of Orissa*, this Court drew a distinction between a declaration regarding the invalidity of a provision and the determination of the relief that should be granted in consequence thereof. This Court held that it was open to the Court to grant, mould or restrict the relief in a manner most appropriate to the situation before it in such a way so as to advance the interest of justice.

12. Reference may also be made to the decision of this Court in *Union of India* v. *Mohd. Ramzan Khan* where non-furnishing of a copy of the enquiry report was taken as violative of the principles of natural justice and any disciplinary action based on any such report was held liable to be set aside. The declaration of law as to the effect of non-supply of a copy of the report was, however, made prospective so that no punishment already imposed upon a delinquent employee would be open to challenge on that account.

13. In *Ashok Kumar Gupta* v. *State of U.P.*, a three-Judge Bench of this Court held that although *Golak Nath case* regarding unamendability of fundamental rights under Article 368 of the Constitution had been overruled in *Kesavananda Bharati* v. *State of Kerala* yet the doctrine of prospective overruling was upheld and followed in several later decisions. This Court further held that the Constitution does not expressly or by necessary implication provide against the doctrine of prospective overruling. As a matter of fact Articles 32(4) and 142 are designed with words of width to enable the Supreme Court to declare the law and to give such directions or pass such orders as are necessary to do complete justice. This Court observed: (*Ashok Kumar Gupta case*, SCC pp. 246-47, para 54)

"*54*. … So, there is no acceptable reason as to why the Court in dealing with the law in supersession of the law declared by it earlier could not restrict the operation of law, as declared, to the future and save the transactions, whether statutory or otherwise, that were effected on the basis of the earlier law. This Court is, therefore, not impotent to adjust the competing rights of parties by prospective overruling of the previous decision in *Rangachari* ratio. The decision in *Mandal case* postponing the operation for five years from the date of the judgment is an instance of, and an extension to the principle of prospective overruling following the principle evolved in *Golak Nath case*."

14. Dealing with the nature of the power exercised by the Supreme Court under Article 142, this Court held that the expression

"*complete justice*" are words meant to meet myriad situations created by human ingenuity or because of the operation of statute or law declared under Articles 32, 136 or 141 of the Constitution. This Court observed: (*Ashok Kumar Gupta case*, SCC pp. 250-51, para 60)

"*60*. … The power under Article 142 is a constituent power transcendental to statutory prohibition. Before exercise of the power under Article 142(2), the Court would take that prohibition (sic provision) into consideration before taking steps under Article 142(2) and we find no limiting words to mould the relief or when this Court takes appropriate decision to mete out justice or to remove injustice. The phrase 'complete justice' engrafted in Article 142(1) is the word of width couched with elasticity to meet myriad situations created by human ingenuity or cause or result of operation of statute law or law declared under Articles 32, 136 and 141 of the Constitution and cannot be cribbed or cabined within any limitations or phraseology. Each case needs examination in the light of its backdrop and the indelible effect of the decision. In the ultimate analysis, it is for this Court to exercise its power to do complete justice or prevent injustice arising from the exigencies of the cause or matter before it. The question of lack of jurisdiction or nullity of the order of this Court does not arise. As held earlier, the power under Article 142 is a constituent power within the jurisdiction of this Court. So, the question of a law being void ab initio or nullity or voidable does not arise."

15. In *Somaiya Organics (India) Ltd.* v. *State of U.P.*, this Court held that the doctrine of prospective overruling was in essence a recognition of the principle that the court moulds the relief claimed to meet the justice of the case and that the Apex Court in this country expressly enjoys that power under Article 142 of the Constitution which allows this Court to pass such decree or make such order as is necessary for doing complete justice in any case or matter pending before this Court. This Court observed: (SCC p. 532, para 27)

"*27*. In the ultimate analysis, prospective overruling, despite the terminology, is only a recognition of the principle that the court moulds

> the reliefs claimed to meet the justice of the case — justice not in its logical but in its equitable sense. As far as this country is concerned, the power has been expressly conferred by Article 142 of the Constitution which allows this Court to 'pass such decree or make such order as is necessary for doing complete justice in any cause or matter pending before it'. In exercise of this power, this Court has often denied the relief claimed despite holding in the claimants' favour in order to do 'complete justice'."
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> **16.** The "doctrine of prospective overruling" was, observed by this Court as a rule of judicial craftsmanship laced with pragmatism and judicial statesmanship as a useful tool to bring about smooth transition of the operation of law without unduly affecting the rights of the people who acted upon the law that operated prior to the date of the judgment overruling the previous law."

The Supreme Court in the case of **B.A. Linga Reddy and others Vs. Karnataka State Transport Authority and others** reported in **(2015) 4 SCC 515** has held as under:-

> **34.** The view of the High Court in *Ashrafulla* has been reversed by this Court. The decision is of retrospective operation, as it has not been laid down that it would operate prospectively; more so, in the case of reversal of the judgment. This Court in *P.V. George* v. *State of Kerala* held that the law declared by a court will have a retrospective effect if not declared so specifically. Referring to *Golak Nath* v. *State of Punjab* it had also been observed that the power of prospective overruling is vested only in the Supreme Court and that too in constitutional matters. It was observed: (*P.V. George case*, SCC pp. 565 & 569, paras 19 & 29)
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> "*19*. It may be true that when the doctrine of stare decisis is not adhered to, a change in the law may adversely affect the interest of the citizens. The doctrine of prospective overruling although is applied to overcome such a situation, but then it must be stated expressly. The power must be exercised in the clearest possible term. The decisions of this Court are clear pointer thereto.
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> * * *

29. Moreover, the judgment of the Full Bench has attained finality. The special leave petition has been dismissed. The subsequent Division Bench, therefore, could not have said as to whether the law declared by the Full Bench would have a prospective operation or not. The law declared by a court will have a retrospective effect if not otherwise stated to be so specifically. The Full Bench having not said so, the subsequent Division Bench did not have the jurisdiction in that behalf."

35. In *Ravi S. Naik* v. *Union of India*, it has been laid down that there is retrospective operation of the decision of this Court. The interpretation of the provision becomes effective from the date of enactment of the provision. In *M.A. Murthy* v. *State of Karnataka*, it was held that the law declared by the Supreme Court is normally assumed to be the law from inception. Prospective operation is only exception to this normal rule. It was held thus: (*M.A. Murthy case*, SCC pp. 520-21, para 8)

"*8*. The learned counsel for the appellant submitted that the approach of the High Court is erroneous as the law declared by this Court is presumed to be the law at all times. Normally, the decision of this Court enunciating a principle of law is applicable to all cases irrespective of its stage of pendency because it is assumed that what is enunciated by the Supreme Court is, in fact, the law from inception. The doctrine of prospective overruling which is a feature of American jurisprudence is an exception to the normal principle of law, was imported and applied for the first time in *Golak Nath* v. *State of Punjab*. In *ECIL* v. *B. Karunakar* the view was adopted. Prospective overruling is a part of the principles of constitutional canon of interpretation and can be resorted to by this Court while superseding the law declared by it earlier. It is a device innovated to avoid reopening of settled issues, to prevent multiplicity of proceedings, and to avoid uncertainty and avoidable litigation. In other words, actions taken contrary to the law declared prior to the date of declaration are validated in larger public interest. The law as declared applies to future cases. (See *Ashok Kumar Gupta* v. *State of U.P.* and *Baburam* v. *C.C. Jacob*.) It is for this

> Court to indicate as to whether the decision in question will operate prospectively. In other words, there shall be no prospective overruling, unless it is so indicated in the particular decision. It is not open to be held that the decision in a particular case will be prospective in its application by application of the doctrine of prospective overruling. The doctrine of binding precedent helps in promoting certainty and consistency in judicial decisions and enables an organic development of the law besides providing assurance to the individual as to the consequences of transactions forming part of the daily affairs. That being the position, the High Court was in error by holding that the judgment which operated on the date of selection was operative and not the review judgment in *Ashok Kumar Sharma case*. All the more so when the subsequent judgment is by way of review of the first judgment in which case there are no judgments at all and the subsequent judgment rendered on review petitions is the one and only judgment rendered, effectively and for all purposes, the earlier decision having been erased by countenancing the review applications. The impugned judgments of the High Court are, therefore, set aside."

The Supreme Court in the case of **P.V. George Vs. State of Kerala** reported in **(2007) 3 SCC 557** has held as under :

> "27. The rights of the appellants were not determined in the earlier proceedings. According to them, merely a law was declared which was prevailing at that point of time; but the appellants were not parties therein. Thus, no decision was rendered in their favour nor any right accrued thereby."

Thus, it is clear that the principle of prospective overruling would not apply in respect of the judgment passed by the Supreme Court unless and until it is expressly so mentioned in the judgment. Furthermore, there cannot be an estoppel against the statute.

The Supreme Court in the case of **Bengal Iron Corpn. v. CTO** reported in **1994 Supp (1) SCC 310** has held as under:-

> **"18.** ..... There can be no estoppel against the statute. ..... Law is what is declared by this Court and the High Court — to wit, it is for this Court and the High Court to declare what does a particular provision of statute say, and not for the executive. Of course, the Parliament/Legislature never speaks or explains what does a provision enacted by it mean. (See *Sanjeev Coke Mfg. Co.* v. *Bharat Coking Coal Ltd.*)"

Thus, where the question of law has been settled by the Courts, then it has to be held that the said question of law was in existence right from day one.

However, where the rights of a party has been considered and declared, then the said proceedings cannot be reopened on the ground that the judgment on the basis of which, the rights were declared, has been overruled. The Supreme Court in the case of **Union of India Vs. Madras Telephone SC & ST Social Welfare Assn.** reported in **(2006) 8 SCC 662** has held as under :

> **"21.** Having regard to the above observations and clarification we have no doubt that such of the applicants whose claim to seniority and consequent promotion on the basis of the principles laid down in the Allahabad High Court's judgment in *Parmanand Lal case* have been upheld or recognised by the Court or the Tribunal by judgment and order which have attained finality will not be adversely affected by the contrary view now taken in the judgment in *Madras Telephones*. Since the rights of such applicants were determined in a duly constituted proceeding, which determination has attained finality, a subsequent judgment of a court or tribunal taking a contrary view will not adversely

> affect the applicants in whose cases the orders have attained finality. We order accordingly."

Thus, the question for consideration is that whether this Court by order dated 22/7/2009 passed in W.P.3774/2007 (s) had determined the rights of the petitioner, or the right of the petitioner was yet to be decided by the respondents. In order to apply the principle of Res Judicata, there should be a finding of fact either in favor or against the petitioner.

As already observed, this Court had held that since, the policy which was in vogue on the date of the death of the Govt. employee would be applicable, therefore, the respondents were directed to reconsider the case of the petitioner in the light of the said policy. However, there was no determination of the right of the petitioner. The petitioner was not declared entitled for appointment on compassionate ground. Thus, this Court is of the view that the process for consideration of the application for appointment on compassionate was still in progress and there was no final adjudication of the right of the petitioner, and under this circumstance, the principle of *Res Judicata* would not apply in the light of non-application of the principle of prospective overruling. The law declared in the subsequent judgment, thereby overruling the earlier judgment, has to be considered as a law, to be in force from the very inception.

Therefore, this Court is of the considered opinion that although this Court in the first round of litigation might have

directed the respondents to consider the application of the petitioner for appointment on compassionate ground in the light of the policy existing on the date of death of the father of the petitioner, but in the light of the subsequent interpretation of law, as held by the Full Bench of this Court in the case of **Manoj Kumar Deharia (supra)** and in the case of **Laxman Prasad Raikwar (supra),** it is held that the policy which was in existence on the date of consideration of the application would be applicable.

Considering the facts and circumstances of the case, this Court is of the considered opinion that the respondents did not commit any mistake by rejecting the claim of the petitioner by considering the policy which was in vogue on the date of consideration of the application, and the petitioner was rightly held ineligible for appointment on compassionate ground, as his elder brother was already in the Government job.

The petition fails and is hereby **dismissed.**

(G.S. Ahluwalia)
Judge

Arun*

HIGH COURT OF MADHYA PRADESH, JABALPUR, BENCH AT GWALIOR

Gwalior : Dated 24/1/2019

Shri K.B. Chaturvedi, Senior Advocate with Shri G.P. Chaurasiya, Advocate for petitioner.

Shri Vivek Jain, Government Advocate for respondents/State.

Arguments heard.

Order dictated, signed and dated on separate sheets.

(G.S. Ahluwalia)
Judge

Arun*