

***IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR***

BEFORE

**HON'BLE SHRI JUSTICE ANAND PATHAK
&**

HON'BLE SHRI JUSTICE HIRDESH

ON THE 10th OF FEBRUARY, 2026

WRIT APPEAL No. 129/2026

THE STATE OF MADHYA PRADESH AND OTHERS

Versus

AANAND BABELE

Appearance:

Shri Vivek Khedkar – Senior Advocate/Additional Advocate General with Shri Ravindra Dixit – Govt. Advocate for the appellants/State.

Shri Harshvardhan Sharma – Advocate for the respondent.

J U D G M E N T

Per: Justice Anand Pathak

With the consent heard finally.

The present Writ Appeal under Section 2 (1) of The Madhya Pradesh Uchcha Nyayalaya (Khand Nyaypeeth Ko Appeal) Adhiniyam, 2005 is preferred by the appellants/State (respondents in writ petition) being aggrieved by the order dt. 26.08.2025 passed by learned Writ Court in W.P. No.7827/2025, whereby Writ Petition filed by the petitioner has been allowed.

2. Precisely stated, facts of the case for adjudication are that petitioner's father was working as Assistant Accounts Officer in the office of Chief Executive Officer, Janpad Panchayat, Datia District Datia. During COVID 19 Pandemic, he was found positive and took treatment, but ultimately on

24.05.2021 he died. Petitioner being his son, submitted an application for compassionate appointment as per the scheme of the State Govt. for the employees who died of COVID 19. It was informed to the petitioner that he had not attained majority and according to eligibility, age of 18 years is mandatory requirement for compassionate appointment.

3. When the petitioner attained majority on 28.09.2022, he submitted application for compassionate appointment, but of no avail. Therefore, petitioner submitted representation dt.30.04.2024. When no action was taken, he filed W.P.No.15957/2024, which was disposed of directing competent authority to decide the pending representation within a period of four weeks. Thereafter vide order dt.06.11.2024 representation of the petitioner was decided and claim of the petitioner for compassionate appointment was rejected. Against the said order, petitioner preferred W.P.No.7827/2025.

4. Learned Writ Court vide order dt.26.08.2025 allowed the petition and set aside order dt.06.11.2024. Direction was also issued to respondent No.2 to consider petitioner's application on its merits and take a decision thereon within a period of 60 days from the date of submission of certified copy of the order. Being aggrieved by the same, appellants/State filed the instant appeal.

5. Learned Senior Advocate/Additional Advocate General appearing for the appellants/State submits that petitioner's father was working as Assistant Accounts Officer on contract basis in Janpad Panchayat Datia, which is a local body. Salary of the father of petitioner was disbursed under the head of

Mahatma Gandhi National Rural Employment Guarantee Scheme (in short “MGNREG Scheme”) and such fund is part share of central government, which does not come under the purview of Consolidated Fund of State of M.P. Learned senior counsel referred Clause 3.1 of the Circular dt.28.05.2021, according to which all the employees, who were working under MGNERGA are not covered under this scheme. It is submitted that salary to the employees working in MGNERGA was drawn from the fund made available by the Central Government and since salary to the petitioner's father was not paid out of Consolidated Fund of the State Govt., therefore, Clause 3.1 of the circular is not applicable in the present case. Learned Writ Court did not consider this aspect.

6. It is further submitted that Clause 11.5 of the order dt.22.07.2023 prescribes that local body, corporation, mandal, public sector, development board, development authority and counsel are free to take decision regarding service conditions of their contract employees. Since salary to the petitioner's father was disbursed from MGNERGA, which does not come under purview of Consolidated Fund of the State Govt., therefore, representation of petitioner has rightly been rejected but learned Writ Court did not consider all these facts and allowed the writ petition.

7. *Per contra*, learned counsel for the respondent (petitioner in writ petition) supported the order passed by the learned Writ Court and prayed for dismissal of the instant appeal.

8. Heard learned counsel for the parties and perused the record.
9. The core question involved in the case is as to whether late father of petitioner of writ petition (respondent herein), who was working as Assistant Accounts Officer (contract) in Janpad Panchayat Datia, was an employee getting salary from Consolidated Funds of India or not ?
10. So far as concept of Consolidated Fund of India is concerned, petitioner placed report/document (Guide to the Finance Accounts) pertaining to Government of Madhya Pradesh, in which Structure of Government Accounts is discussed. Said structure is reproduced hereinbelow for ready reference because department contains all revenues received under Consolidated Fund of India also :-

A. Board Overview of the Structure of Government Accounts

1. The Finance Accounts of the State of Madhya Pradesh present the accounts of receipts and outgoings of the Government for the year, together with the financial results disclosed by the Revenue and Capital accounts, the accounts of the Public Debt and the liabilities and assets of the State Government as worked out from the balances recorded in the accounts. The Finance Accounts are accompanied by Appropriation Accounts, which present comparison of expenditure against the Grants/Appropriations.
2. The Accounts of the Government are kept in the following three parts:

Part I: Consolidated Fund: This Fund comprises all revenues received by the State Government, all loans raised by the State Government (market loans, bonds, loans from the

Central Government, loans from Financial Institutions, Special Securities issued to National Small Savings Fund, etc.), Ways and Means Advances (WMA) extended by the Reserve Bank of India (RBI) and all moneys received by the State Government in repayment of loans. No moneys can be appropriated from this Fund, except in accordance with law and for the purposes and in the manner provided by the Constitution of India. Certain categories of expenditure (e.g., salaries of Constitutional authorities, loan repayments, etc.), constitute a charge on the Consolidated Fund of the State **(Charged Expenditure)** and are not subject to vote by the Legislature. All other expenditure **(Voted Expenditure)** is voted by the Legislature.

The Consolidated Fund comprises two sections: Revenue and Capital (including Public Debt, Loans and Advances). These are further categorised under 'Receipts' and 'Expenditure'. The Revenue Receipts section is divided into three sectors, viz., Tax Revenue', 'Non Tax Revenue and 'Grants-in-Aid and Contributions'. These three sectors are further divided into sub-sectors like 'Goods and Services Tax', Taxes on Income and Expenditure', 'Fiscal Services', etc. The Capital Receipts section does not contain any sectors or sub-sectors. The Revenue Expenditure section is divided into four sectors, viz., 'General Services', 'Social Services', 'Economic Services' and 'Grants-in-Aid and Contributions'. These sectors in the Revenue Expenditure section are further divided into sub-sectors, like, 'Organs of State', 'Education, Sports, Art and Culture', etc. The Capital Expenditure section is sub-divided into seven sectors, viz.. 'General Services', 'Social Services', 'Economic Services',

'Public Debt', 'Loans and Advances'. Inter-State Settlement' and Transfer to Contingency Fund.

Part II: Contingency Fund: This Fund is in the nature of an imprest, which is established by the State Legislature by law, and is placed at the disposal of the Governor to enable advances to be made for meeting unforeseen expenditure pending authorisation of such expenditure by the State Legislature. The fund is recouped by debiting the expenditure to the concerned functional major head relating to the Consolidated Fund of the State. The Contingency Fund of the Government of Madhya Pradesh for 2021-22 is ₹ 1,000 crore.

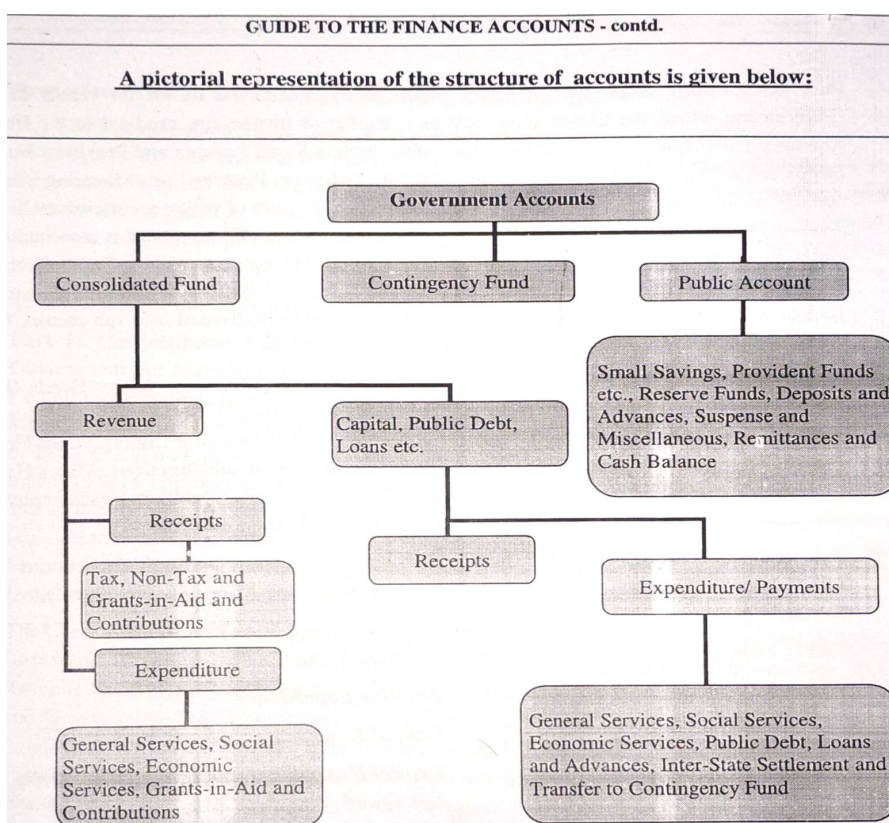
Part III: Public Account: All other public moneys received by or on behalf of the Government, where the Government acts as a banker or trustee, are credited to the Public Account. The Public Account includes repayable such as Small Savings and Provident Funds, Deposits (bearing interest and not bearing interest), Advances, Reserve Funds (bearing interest and not bearing interest), Remittances and Suspense heads (both of which are transitory heads, pending final booking). The net cash balance available with the Government is also included under the Public Account. The Public Account comprises six sectors, viz., 'Small Savings, Provident Funds, etc.', 'Reserve Funds', 'Deposit and Advances', 'Suspense and Miscellaneous', 'Remittances', and 'Cash Balance'. These sectors are further sub-divided into sub-sectors. The Public Account is not subject to the vote of the Legislature.

3. Government accounts are presented under a six tier classification, viz., Major Heads (four digits), Sub-Major Heads (two digits), Minor Heads (three digits), Sub-Heads (two digits), Detailed

Heads (two to three digits) and Object Heads (two/three/ four digits). Major Heads represent functions of Government, Sub-Major Heads represent sub-functions, Minor Heads represent programmes/ activities, Sub-Heads represent schemes, Detailed Heads represent sub-schemes and Object Heads represent purpose/object of expenditure.

4. The main unit of classification in accounts is the Major Head which contains the following coding pattern (according to the List of Major and Minor Heads corrected up to 31 March 2022).

0005 to 1606	Revenue Receipts
2011 to 3606	Revenue Expenditure
4000	Capital Receipts
4046 to 7810	Capital Expenditure (including Public Debt, Loans and Advances)
7999	Appropriate to the Contingency Fund
8000	Contingency Fund
8001 to 8999	Public Account



11. Therefore, it appears that detail detailing of different accounts is mentioned as shown above and source of Fund becomes important.

12. At the same time, as per circular dt.28.05.2021, which was issued by the State Government, General Administration Department to tackle the wrath of COVID-19 Pandemic situation and the persons, who died in harness while performing their duties to give compassionate appointment to their sons/daughters, who worked in different capacities and their salary/honorarium/wages were paid through Consolidated Fund of India. Relevant Clause 3.1 of the policy/report is reproduced hereinbelow for ready reference :-

3.1. राज्य के समस्त नियमित/स्थायी/ कार्यभरित एवं अस्थायी से वेतन पाने वाले/दैनिक वेतन भोगी/तदर्थ संचित/कलेक्टर दफ्तर पर कार्यरत स्थायी वेतन/मन्देश/परिश्रमिक का भुगतान राज्य के संचित निधि से किये जायेंगे।

13. Therefore, it is to be seen whether funding pattern under MGNREGA is such where payment is made from Consolidated Fund of India/State or payment received as Centrally Sponsored Scheme. Funding pattern to meet the cause of project undertaken in MGNREGA is discussed in Section 22 of the Mahatma Gandhi National Rural Employment Guarantee Act, 2005 (hereinafter shall be referred to as 'the MGNREGA Act'). Relevant Section 22 is reproduced hereinbelow for ready reference :-

22. Funding Pattern.-(1) Subject to the rules as may be made by the Central Government in this behalf, the Central Government

shall meet the cost of the following, namely :-

- (a) the amount required for payment of wages for unskilled manual work under the scheme;
- (b) up to three-fourths of the material cost of the Scheme including payment of wages to skilled and semi-skilled workers subject to the provisions of schedule II;
- (c) such percentage of the total cost of the Scheme as may be determined by the Central Government towards the administrative expenses, which may include the salary and allowances of the programme Officers and his supporting staff, the administrative expenses of the Central Council, facilities to be provided under Schedule II and such other item as may be decided by the Central Government.

(2) The State Government shall meet the cost of the following, namely:-

- (a) the cost of unemployment allowance payable under the scheme;
- (b) one-fourth of the material cost of the Scheme including payment of wages to skilled and semi-skilled workers subject to the provisions of Schedule II;
- (c) the administrative expenses of the State Council.

14. From the funding pattern, it appears that funds for officers and supporting staff working under MGNREGA scheme come as part of centrally sponsored scheme. It does not fall under Consolidated Fund of India.

15. Office Memorandum dt.27.01.2014 issued by the Government of India, Ministry of Rural Development talks about release of fund to the State

Implementing Agencies for implementation of the Centrally Sponsored Schemes through State Consolidated Fund but it appears that budget provisions for this purpose were to be made under one Major Head as Grant-in-aid. But para 2 of the Office Memorandum apparently talks about release of fund through consolidated fund but it is not part of consolidated fund. There is difference between getting amount to be disbursed from Consolidated Fund and the amount falling within consolidated fund.

16. It appears that learned Writ Court glossed over these aspects and held the employee to be falling under Consolidated Fund on pretext that Central Govt. provides funds in lump sum and once it is received by the State, it becomes part of Consolidated Fund. However, said contention appears to be incorrect. Salary comes from centrally funded scheme and not from Consolidated Fund. Salary is routed through Consolidated Fund, but not disbursed from Consolidated Fund of State. Therefore, this case does not fall under the category where respondent could have given the benefit of compassionate appointment. Learned Writ Court erred in passing the impugned order because of aforementioned discussion.

17. Resultantly, the instant appeal preferred by the appellants/State is allowed. Order 26.08.2025 passed by the learned Writ Court in W.P.No.7827/2025 is set aside. Order dt.06.11.2024 (Annexure P/1), which was under challenge in the writ petition is affirmed.

18. However, one more fact deserves consideration, which persuaded this

Court to pass this direction. Circular dt.28.05.2021, which was issued by the General Administration Department, Govt. of M.P. in the wake of COVID 19 Pandemic situation, which provides Clause 3.1 and same has been discussed above. On the basis of above discussion, appellant is not found entitled to get compassionate appointment by the State Govt. However, Clause 9 of said circular provides the mechanism where persons like appellant can get compassionate appointment in their own unit (Jila/Janpad Panchayat etc. in the present case). Clause 9 of the said circular is reproduced hereinbelow for ready reference of authority :-

9. अर्द्धशासकीय /निगम /मण्डल /संस्थाओं / प्राधिकरण /विश्वविद्यालयों/ स्थानीयनिकायों/ पंचायती राज संस्थाओं के नियोजन हेतु

राज्य शासन के निगम/मण्डल/संस्थाओं/प्राधिकरण/ विश्वविद्यालयों/ स्थानीयनिकाय में कार्यरत नियमित/ स्थाईकर्मों/ दैनिकवेतनभोगी/ तदर्थ/ संविदा/आउटसोर्स सेवायुक्तों को उनके शासी निकाय के अनुमोदन से इस योजना के अनुरूप से इस योजना के अनुरूप उसी संस्था में अनुकंपा नियुक्ति दी जा सकेगी। इन संस्थाओं को प्रकरण कंडिका 8.1 के अंतर्गत कलेक्टर को भेजने की आवश्यकता नहीं होगी।

19. Another policy dt.22.07.2023 (Annexure P/11 of the writ petition) issued by General Administration Department, Govt. of M.P. provides almost similar mechanism by Clause 11.5. Same is also reproduced hereinbelow for ready reference :-

11.5. मध्यप्रदेश शासन के विभागों के अंतर्गत आने वाले निगम/ मण्डल/ सावर्जनिक उपक्रम /स्थानीय निकाय/ विश्वविद्यालय/आयोग/विकास

प्राधिकरण/बोर्ड/परिषद/संस्थाएं इन दिशा निर्देशों को अपने संविदा कार्मिकों के लिए लागू करने के संबंध में अपने स्तर पर समुचित निर्णय लेने के लिए सक्षम होंगे। उपरोक्त दिशा- निर्देशों का कड़ाई से पालन सुनिश्चित किया जाए।

20. Perusal of both these clauses of two different policies show the intention of the State Government and that intention is that victims of COVID 19 Pandemic or because of sudden death of their bread earners, they must get benefit in their own units where the bread earner was working. Local Self Govt. is one such unit as referred in both circulars. Therefore, it is the expectation of this Court that respondent shall consider the case of present appellant in view of Clause 9 of policy dt.28.05.2021 and Clause 11.5 of policy dt.22.07.2023 and would give compassionate appointment, if any available, to the appellant so as to give support to his family because of death of their bread earner in COVID 19 Pandemic situation. Needful consideration be done within two months from the date of passing of this order.

21. Disposed of.

(ANAND PATHAK)
JUDGE

(HIRDESH)
JUDGE