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W.P. No.31332/2023

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

BEFORE

HON'BLE SHRI JUSTICE JAI KUMAR PILLAI

ON THE 29TH OF JANUARY, 2026

WRIT PETITION No.31332 of 2023

PRIYANKA PANDEY

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Prasanna R. Bhatnagar - Advocate for the petitioners.

Ms. Swati Ukhale – Advocate for respondents/State

ORDER

This writ petition has been filed by the petitioner under Article 226 of the Constitution of India calling in question the validity and legality of the impugned communication/order dated 30/10/2023 (Annexure P/1) issued by Respondent No.4, whereby the claim of the petitioner for Compassionate Appointment has been rejected on the



ground of alleged ineligibility under Clauses 3, 13.1 and 13.2 of the Compassionate Appointment Policy dated 18/08/2008.

2. The facts of the case, briefly stated are that the father of the petitioner, Late Shri Sitaram Pandey, was working as Revenue Inspector in the respondent Department. He died in harness on 10/12/2010, leaving behind a widow, a son namely Sanjeev Pandey, one unmarried daughter and one married daughter. After the death of the father of the petitioner, the petitioner's brother, Shri Sanjeev Pandey, applied for Compassionate Appointment in the month of January, 2011 and submitted the application along with all relevant documents. After scrutiny, he was called for training for the post of Patwari, which commenced from 01/07/2014.

3. The petitioner's brother participated in the training and successfully completed the training period. After completion of the training process, respondent No.3 sought police verification, in which two cases under Section 13 of the Gambling Act of the years 2008 and 2009 were found against him, in which he was held guilty and fined Rs.100/-. After receipt of the report, respondent No.3 rejected the candidature of the petitioner's brother vide order dated 08/01/2015 (Annexure P/3). Being aggrieved by the said order, the petitioner's brother filed W.P. No.1108/2016 before this Court, which was dismissed as withdrawn on 02/05/2023. After rejection of the



candidature of the petitioner's brother, on 01/10/2016, the petitioner's mother submitted an application seeking consideration of the petitioner's candidature for Compassionate Appointment along with all relevant documents, affidavits of other dependents and educational documents of the petitioner.

4. Afterwards, proceedings were initiated regarding Compassionate Appointment of the petitioner. In the said proceedings, it was stated by the respondents that after decision in the case of the petitioner's brother, the application of the petitioner would be considered. On different dates, the same assurance was given. On the basis of such assurance, the petitioner's brother withdrew the writ petition. After withdrawal of the writ petition by the petitioner's brother, the respondents rejected the application of the petitioner by the impugned communication dated 30/10/2023, on the grounds that Compassionate Appointment can be granted only within seven years from the date of death of the employee and also on the grounds mentioned in Clauses 13.1 and 13.2 of the policy dated 18/08/2008 (Annexure P/7).

5. Learned counsel for the petitioner contended that the impugned order rejecting the claim of the petitioner for Compassionate Appointment is arbitrary, illegal and contrary to the policy governing Compassionate Appointment. It is submitted that the family of the deceased employee remained in penury after the death of the sole



breadwinner and continues to face financial hardship. It is contended that the petitioner's brother was never appointed, as his candidature was rejected after police verification and therefore Clauses 13.1 and 13.2 of the policy are not applicable to the case of the petitioner. It is further contended that the delay in consideration of the petitioner's application occurred due to pendency of the proceedings relating to the petitioner's brother and the delay is attributable to the respondents. It is urged that the impugned communication is violative of Articles 14 and 21 of the Constitution of India and deserves to be quashed.

6. *Per contra*, learned Government Advocate for the respondents/State submitted that the petitioner is not eligible for Compassionate Appointment in view of Clauses 3, 13.1 and 13.2 of the policy dated 18/08/2008. It is contended that Compassionate Appointment was already considered and granted to the petitioner's brother and the present situation has arisen due to the conduct of the petitioner's brother. It is further submitted that once Compassionate Appointment has been granted to one family member, the same cannot be transferred or granted to another family member. It is prayed that the petition being devoid of merit be dismissed.

7. Heard both parties at length and examined the entire record available.

8. This Court, upon careful examination of the record, finds that the



impugned communication dated 30.10.2023 reads as under:

“1. स्व. श्री सीताराम पाण्डेय राजस्व निरीक्षक की मृत्यु दिनांक 10.12.2010 को होने के पश्चात् उनके पुत्र श्री संजीव पाण्डेय को पटवारी के पद पर आदेश दिनांक 19.06.2014 द्वारा नियुक्ति प्रदाय की गई। लेकिन आवेदक के विरुद्ध आपराधिक प्रकरण दर्ज पाये जाने पर कलेक्टर रतलाम के आदेश क्रमांक 70 दिनांक 08.01.2016 के द्वारा अनुकम्पा नियुक्ति निरस्त की गई।

2. श्री संजीव पाण्डेय द्वारा कलेक्टर के आदेश क्रमांक 70 दिनांक 08.01.2016 के विरुद्ध माननीय न्यायालय में याचिका प्रस्तुत की गई जिसे आवेदक द्वारा दिनांक 02.05.2023 को वापस कर लिया है। म०प्र० शासन सामान्य प्रशासन विभाग भोपाल के परिपत्र दिनांक की कण्डिका 3 में अनुकम्पा नियुक्ति 7 वर्ष की अवधि तक दिये जाने का प्रावधान है।

3. इसी प्रकार कण्डिका 13.1 में आवेदक को एक बार अनुकम्पा नियुक्ति दिये जाने के पश्चात् किसी अन्य पद पर पुनः नियुक्ति नहीं जावेगी। इसके अतिरिक्त कण्डिका 13.2 में अनुकम्पा के आधार एक बार की गई दूसरे को अंतरित नहीं की जावेगी।

उपरोक्त कण्डिका के आधार पर आवेदिका को अनुकम्पा नियुक्ति की पात्रता नहीं आती है। अतः आयुक्त, भू-अभिलेख ग्वालियर म०प्र० के पत्र दिनांक 20.09.2023 के अनुसार आपका आवेदन नस्ती बद्ध किया जाता है।”

9. The rejection is founded upon Clauses 3, 13.1 and 13.2 of the policy dated 18.08.2008, which read as under:

“3.2 शासकीय सेवक को मृत्यु दिनांक से 7 (सात) वर्ष तक पद उपलब्ध होने पर ही उसके आश्रित को अनुकम्पा नियुक्ति की पात्रता होगी.



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13.1 आवेदक को एक बार अनुकंपा नियुक्ति दिये के पश्चात् किसी अन्य पद पर पुनः नियुक्ति नहीं दी जावेगी.

13.2 अनुकंपा के आधार पर की गई नियुक्ति किसी दूसरे व्यक्ति को अंतरित नहीं की जा सकेगी.”

10. This Court finds it to be of pivotal significance that in the present case, the initial application for Compassionate Appointment was submitted by the petitioner’s brother, Shri Sanjeev Pandey, well within the stipulated period of seven years from the date of death of the deceased employee, Late Shri Sitaram Pandey, who died in harness on 10/12/2010. Thus, the requirement contained in Clause 3 of the policy dated 18/08/2008 stood duly satisfied at the threshold.

11. The record further reveals that pursuant to such application, the Authorities not only considered the claim of Shri Sanjeev Pandey but proceeded to issue an order dated 19/06/2014, whereby he was appointed and sent for training for the post of Patwari. It is only thereafter that a character certificate report was sought and received from the Superintendent of Police, on the basis of which the Compassionate Appointment of Shri Sanjeev Pandey came to be cancelled by order dated 08/01/2015. It is further borne out from the record that after the cancellation of the Compassionate Appointment of Shri Sanjeev Pandey, he challenged the said action by filing W.P. No.1108/2016, which remained pending till it was withdrawn on



02/05/2023. Furthermore upon perusal of the Annexure P/5, it reveals that the mother of the petitioner has again made an application for the Compassionate Appointment of the petitioner on 01/10/2016 which is also well within the 7 years of the death of deceased / Shri Sitaram Pandey. Thus, clause 3.1 will not apply in the present case.

12. Further, upon careful examination of Clause 13.3 of the policy dated 18/08/2008, which reads as under :-

“13.3 नियुक्ति के पूर्व चरित्र सत्यापन एवं चिकित्सकीय परीक्षण नियमानुसार कराया जावेगा परन्तु दिवंगत शासकीय सेवक की धर्मपत्नी को अनुकंपा नियुक्ति देने के मामलों में नियुक्ति के पूर्व चरित्र सत्यापन (पुलिस बेरिफिकेशन) कराने की शर्त नहीं रहेगी. अनुकंपा नियुक्ति इस शर्त के साथ दी जावेगी कि नियुक्ति के पश्चात् यदि यह पाया जाता है कि संबंधित व्यक्ति शासकीय सेवा में रखे जाने योग्य नहीं है, तो उसे दी गई अनुकंपा नियुक्ति समाप्त की जा सकेगी.”

13. This Court finds that the policy itself mandates that character verification is to be conducted prior to appointment. In the facts of the present case, the Authorities, despite having ample opportunity, did not conclude the character verification process before appointing and deputing the petitioner's brother for training. The cancellation of his Compassionate Appointment was effected only subsequently. Therefore, the delay and procedural lapse are clearly attributable to the respondents themselves and not to the petitioner or her family.



14. Once the Compassionate Appointment of the petitioner's brother stood cancelled, it necessarily follows that no member of the family of the deceased employee was ultimately appointed on compassionate grounds. Consequently, the application of Clauses 13.1 and 13.2 of the policy is wholly misconceived. Clause 13.1 operates only in a situation where an applicant has already been given Compassionate Appointment and thereafter seeks re-appointment on another post. Similarly, Clause 13.2 applies only where an existing Compassionate Appointment is sought to be transferred to another person. In the present case, the petitioner was neither earlier appointed nor is there any question of transfer of appointment. The petitioner's application arose only after the cancellation of the appointment of her brother and, therefore, does not fall within the mischief of Clauses 13.1 or 13.2.

15. The Hon'ble Supreme Court, in the matter of **The State of West Bengal Vs. Debabrata Tiwari & Ors., Civil Appeal Nos. 8842–8855 of 2022, decided on 03.03.2023**, has authoritatively held that:-

“7.1. It may be apposite to refer to the following decisions of this Court, on the rationale behind a policy or scheme for compassionate appointment and the considerations that ought to guide determination of claims for compassionate appointment.

*i. **In Sushma Gosain vs. Union of India, (1989) 4 SCC 468**, this Court observed that in all claims for appointment on compassionate grounds, there should not be any delay in*



appointment. That the purpose of providing appointment on compassionate grounds is to mitigate the hardship caused due to the death of the bread earner in the family. Such appointment should, therefore, be provided immediately to redeem the family in distress.

*ii. **In Umesh Kumar Nagpal vs. State of Haryana, (1994) 4 SCC 138**, this Court observed that the object of granting compassionate employment is to enable the family of a deceased government employee to tide over the sudden crisis by providing gainful employment to one of the dependants of the deceased who is eligible for such employment. That mere death of an employee in harness does not entitle his family to such source of livelihood; the Government or the public 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 a job is to be offered to the eligible member of the family, provided a scheme or rules provide for the same. This Court further clarified in the said case that compassionate appointment is not a vested right which can be exercised at any time after the death of a government servant. That the object being to enable the family to get over the financial crisis which it faces at the time of the death of the sole breadwinner, compassionate employment cannot be claimed and offered after lapse of considerable amount of time and after the crisis is overcome.*

*iii. **In Haryana State Electricity Board vs. Hakim Singh, (1997) 8 SCC 85**, (“Hakim Singh”) this Court placed much emphasis on the need for immediacy in the manner in which claims for compassionate appointment are made by the dependants and decided by the concerned authority. This*



Court cautioned that it should not be forgotten that the object of compassionate appointment is to give succour to the family to tide over the sudden financial crisis that has befallen the dependants on account of the untimely demise of its sole earning member. Therefore, this Court held that it would not be justified in directing appointment for the claimants therein on compassionate grounds, fourteen years after the death of the government employee. That such a direction would amount to treating a claim for compassionate appointment as though it were a matter of inheritance based on a line of succession.

*iv. **This Court in State of Haryana vs. Ankur Gupta, AIR 2003 SC 3797** held that in order for a claim for compassionate appointment to be considered reasonable and permissible, it must be shown that a sudden crisis occurred in the family of the deceased as a result of death of an employee who had served the State and died while in service. It was further observed that appointment on compassionate grounds cannot be claimed as a matter of right and cannot be made available to all types of posts irrespective of the nature of service rendered by the deceased employee.*

*v. There is a consistent line of authority of this Court on the principle that appointment on compassionate grounds is given only for meeting the immediate unexpected hardship which is faced by the family by reason of the death of the bread earner vide **Jagdish Prasad vs. State of Bihar, (1996) 1 SCC 301**. When an appointment is made on compassionate grounds, it should be kept confined only to the purpose it seeks to achieve, the idea being not to provide for endless compassion, vide *I.G. (Karmik) vs. Prahalad Mani Tripathi, (2007) 6 SCC 162*. In the same vein is the*



decision of this Court in Mumtaz Yunus Mulani vs. State of Maharashtra, (2008) 11 SCC 384, wherein it was declared that appointment on compassionate grounds is not a source of recruitment, but a means to enable the family of the deceased to get over a sudden financial crisis.

vi. **In State of Jammu and Kashmir vs. Sajad Ahmed Mir, AIR 2006 SC 2743**, the facts before this Court were that the government employee (father of the applicant therein) died in March, 1987. The application was made by the applicant after four and half years in September, 1991 which was rejected in March, 1996. The writ petition was filed in June, 1999 which was dismissed by the learned Single Judge in July, 2000. When the Division Bench decided the matter, more than fifteen years had passed from the date of death of the father of the applicant. This Court remarked that the said facts were relevant and material as they would demonstrate that the family survived in spite of death of the employee. Therefore, this Court held that granting compassionate appointment after a lapse of a considerable amount of time after the death of the government employee, would not be in furtherance of the object of a scheme for compassionate appointment.

vii. **In Shashi Kumar**, this Court speaking through Dr. D.Y. Chandrachud, J. (as His Lordship then was) observed that compassionate appointment is an exception to the general rule that appointment to any public post in the service of the State has to be made on the basis of principles which accord with Articles 14 and 16 of the Constitution. That the basis of the policy is that it recognizes that 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. That it is the immediacy of the need which furnishes the basis for the State to allow the benefit of compassionate



appointment. The pertinent observations of this Court have been extracted as under:

“41. Insofar as the individual facts pertaining to the Respondent are concerned, it has emerged from the record that the Writ Petition before the High Court was instituted on 11 May 2015. The application for compassionate appointment was submitted on 8 May 2007. On 15 January 2008 the Additional Secretary had required that the amount realized by way of pension be included in the income statement of the family. The Respondent waited thereafter for a period in excess of seven years to move a petition Under Article 226 of the Constitution. In Umesh Kumar Nagpal (supra), this Court has emphasized that the basis of a scheme of compassionate appointment lies in the need of providing immediate assistance to the family of the deceased employee. This sense of immediacy is evidently lost by the delay on the part of the dependant in seeking compassionate appointment.”

7.2. On consideration of the aforesaid decisions of this Court, the following principles emerge : -

i. 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.



ii. 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.

iii. 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.

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

16. In the considered view of this Court, the respondents have failed to appreciate the factual and legal distinction between grant of Compassionate Appointment and cancellation of Compassionate Appointment. The impugned rejection proceeds on an erroneous assumption that Compassionate Appointment had already been availed by the family, which assumption is demonstrably incorrect on the face of the record.



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17. In view of the foregoing reasons, this Court is of the considered opinion that the impugned communication/order dated 30/10/2023 (Annexure P/1) passed by respondent No.4 cannot be sustained in law. The impugned order dated 30/10/2023 is hereby **quashed**. The Competent Authority is directed to consider the application of the petitioner for Compassionate Appointment strictly in accordance with the policy dated 18/08/2008 and in light of the observations made hereinabove.

18. The compliance of this order be ensured within a period of **60 days** from the date of receipt of a certified copy of this Order.

19. Accordingly, the writ petition is **allowed** in terms of the directions indicated hereinabove.

20. Pending applications, if any, shall be **disposed of** accordingly.

(Jai Kumar Pillai)
Judge

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