

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

**BEFORE  
JUSTICE SUJOY PAUL**

**ON THE 30<sup>th</sup> OF OCTOBER, 2023**

**WRIT PETITION (S) No. 1034 of 2004**

**BETWEEN :-**

**SHRI SUDHAKAR RAMCHANDRA  
MADANKAR S/O LATE SHRI  
RAMCHANDRA MADANKAR, AGED ABOUT  
25 YEARS, R/O MEGHNATH WARD, NEAR  
GAT PANDURVA, CHHINDWARA**

**.....PETITIONER**

***(BY SHRI L.N. SAKLE - ADVOCATE)***

**AND**

- 1. GENERAL MANAGER, STATE BANK  
OF INDIA, M.P. CIRCLE,  
HOSHANGABAD ROAD, BHOPAL**
- 2. DY. GENERAL MANAGER, GENERAL  
OFFICE, BHOPAL (M.P.)**
- 3. ASSISTANT GENERAL MANAGER,  
REGION IV, HAMIDIA ROAD,  
BHOPAL (M.P.)**

**.....RESPONDENTS**

***(SHRI SANJAY K. AGRAWAL, SR. ADVOCATE WITH MS. NEERJA AGRAWAL  
- ADVOCATE FOR THE RESPONDENTS - BANK.***

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*This petition coming on for hearing this day, the court passed the following:*

### **ORDER**

In this petition filed under Article 226 of the Constitution the petitioner has prayed that respondents be directed to consider the case of the petitioner for compassionate appointment and provide him the appointment on suitable post.

2. Shri L.N. Sakle, learned counsel for the petitioner submits that the respondents have committed an error in issuing the rejection order dated 4<sup>th</sup> December, 2001. Criticizing this order, it is urged that in view of the judgment of Supreme Court in **Umesh Kumar Nagpal Vs. State of Haryana, (1994) 4 SCC 138**, the petitioner's claim for compassionate appointment could not have been rejected on the basis of terminal dues received by the family of the deceased father of petitioner namely Shri Ramchandra Madankar.

3. This is not in dispute that father of petitioner died in harness on 16.02.2000 and petitioner's application for grant of compassionate appointment is turned down by order dated 4<sup>th</sup> December, 2001. Shri Sakle by placing reliance on the judgment of Supreme Court in **Umesh Kumar Nagpal (supra)** submits that dependents of Class-III / Class-IV employees are entitled for compassionate appointment and respondents have certainly erred in rejecting the application.

4. Shri Sanjay K. Agrawal, learned Sr. counsel supported the impugned order on the basis of same judgment i.e. **Umesh Kumar Nagpal (supra)** and placed reliance on clause (i) of policy/scheme of

compassionate appointment. It is submitted that amount received in various heads of terminal dues are relevant factors as per the policy for deciding the financial health of the family. The petitioner's family has received Rs.4,17,435/-. The total monthly income of the family comes to Rs.3407.00 (Pension + D.A.per month). By adding notional interest on the net terminal benefits, the amount per month comes to Rs.6364/-. The deceased employee's gross last drawn salary was Rs.6195/-. Thus, petitioner's family is getting more than the last drawn salary of deceased employee. The petitioner has not filed any rejoinder and therefore, there is no reason to disbelieve the factual averments relating to payment to the family members after the death of the employee.

5. No other point is pressed by the parties.
6. I have heard the parties at length and perused the record.
7. The respondents have rejected the claim of the petitioner by order dated 4<sup>th</sup> December, 2001 (Annexure P-4). This order is not called in question in the relief clause of Writ Petition. However, on merits also the petitioner's claim was decided on the basis of relevant portion of the policy. The said portion as reproduced in the return reads as under:

**“Clause (i) : Financial condition of the family :**  
 Appointments in the public services are made strictly on the basis of open invitation of applications and merit. However, exceptions are made in favour of dependents of employees dying in harness and leaving their family in penury and without any means of livelihood.

Determining the financial condition of the family is therefore an important criterion for deciding the proposals for compassionate appointment.

The following factors should be taken into account for determining the financial condition of the family:

- (i) Family pension;
- (ii) Gratuity amount received;
- (iii) Employee's / Employer's contribution to Provident Fund.
- (iv) The compensation paid by the Bank or its welfare fund;
- (v) Proceeds of LIC policies or other investment of the deceased employee;
- (vi) Income of family from other sources;
- (vii) Income of other family members from employment or other sources.
- (viii) Liability of the family to other outsiders which is verifiable.
- (ix) Liability of the deceased employee to the Bank on account of borrowing or otherwise.
- (x) Size of the family

**(Emphasis Supplied)**

8. The respondents have considered the claim of the petitioner on the touchstone of the policy. In **Umesh Kumar Nagpal (supra)** the Apex Court has opined as under :-

“2. ....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” ....

(Emphasis Supplied)

9. A plain reading of this verdict makes it clear that financial condition of family is certainly a relevant factor. This Court is unable to persuade itself with the line of argument of Shri Sakle that judgment of **Umesh Kumar Nagpal (supra)** supports his contention.

10. The Apex Court in **Local Admn. Deptt. v. M. Selvanayagam, (2011) 13 SCC 42** poignantly held as under :

“11. It has been said a number of times earlier but it needs to be recalled here that under the scheme of compassionate appointment, in case of an employee dying in harness one of his eligible dependants is given a job with the sole objective to provide immediate successor our to the family which may suddenly find itself in dire straits as a result of the death of the breadwinner. **An appointment made many years after the death of the employee or without due consideration of the financial resources available to his/her dependants and the financial deprivation caused to the dependants as a result of his death, simply because the claimant happened to be one of the dependants of the deceased employee would be directly in conflict with Articles 14 and 16 of the Constitution and hence, quite bad and illegal.** In dealing with cases of compassionate appointment, it is imperative to keep this vital aspect in mind.”

(Emphasis Supplied)

11. Likewise, the Apex Court in **Central Bank of India Vs. Nitin, 2022 SCC OnLine SC 1873** opined as under :

“21. In this case, there is a financial criteria of eligibility for compassionate appointment under the Compassionate Appointment Scheme. Rules which provide for a financial criteria for appointment on Compassionate ground are valid and lawful rules which have to be construed strictly, as otherwise the quota reserved for compassionate appointment would be filled up excluding others who might be in greater and/or far more acute financial distress.”

(Emphasis Supplied)

12. The Apex Court in its recent judgment in **State of W.B. v. Debabrata Tiwari, 2023 SCC OnLine SC 219** has held as under:

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

**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.”**

(Emphasis Supplied)

Similar view is taken by the Apex Court in **Bank of Baroda Vs. Baljit Singh, 2023 SCC OnLine SC 745**.

13. In view of principles laid down in aforesaid judgments of Supreme Court, no fault can be found in the rejection order dated 4<sup>th</sup> December, 2001 and in the order of rejection. Petition fails and is hereby **dismissed**.

(SUJOY PAUL)  
JUDGE