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MP-2631-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

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HON'BLE SHRI JUSTICE PRADEEP MITTAL

ON THE 7th OF APRIL, 2026MISC. PETITION No. 2631 of 2025*AKASH TIWARI**Versus**UNION OF INDIA AND OTHERS*

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Appearance:

Shri Kabeer Paul - Advocate for petitioner.

Shri Shrikrishna Sharma - Advocate for respondents.

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ORDER

Per. Justice Pradeep Mittal

The petitioner has filed the present writ petition under Article 226 of the Constitution of India, impugning the order dated 01.05.2025 passed by the Central Administrative Tribunal, Jabalpur (hereinafter referred to as "the Tribunal"), whereby the Original Application filed by the petitioner for compassionate appointment in Bharat Sanchar Nigam Limited (hereinafter "BSNL") was dismissed, being barred by limitation and also on merits.

2. The brief facts giving rise to the present petition are that the father of the petitioner was working in BSNL and died in harness on 02.04.2005. Within a short span, the petitioner submitted an application for compassionate appointment on 16.05.2005. The petitioner received no response from the respondent department for years. He filed a further



application dated 17.03.2016 seeking an update. On 09.01.2020, he made a fresh representation before the authorities. Thereafter, the respondents vide communication dated 14.01.2020 informed the petitioner that his case had already been rejected vide letter dated 06.07.2015, on the ground that he had secured only 39 points out of 100 under the Compassionate Appointment Policy of BSNL, whereas the threshold was 55 points. The petitioner challenged the order dated 06.07.2015 as well as the communication dated 14.01.2020 before the Tribunal, contending, inter alia, that the rejection letter dated 06.07.2015 was never served upon him, that his case ought to have been decided under the DOPT Policy dated 09.10.1998 (prevalent at the time of his father's death), and that the assessment under the Policy of 2007 was discriminatory and arbitrary. The Tribunal dismissed the Original Application and the petitioner is now before this Court.

3 . Learned counsel for the petitioner has reiterated the submissions made before the Tribunal. It is urged that the rejection order dated 06.07.2015 was never communicated to the petitioner and the respondents have failed to produce any evidence of service of the said communication. Accordingly, it is submitted that the petitioner's Original Application before the Tribunal was within time, reckoned from January 2020 when he first received intimation of the rejection. It is further submitted that the Tribunal failed to consider the judgment of the Hon'ble Supreme Court in Chief General Manager, Telecommunication, BSNL & Ors. v. Vidya Prasad, (2021) 13 SCC 212, as well as the case of State of Madhya Pradesh v. Amit Shrivastava, (2020) 10 SCC 496, wherein it was held that the applicable policy



for deciding a compassionate appointment claim is the one in force on the date of death of the employee. It is also urged that the weightage point system prescribed in the Policy of 2007 is discriminatory since it awards 15 points to a widow but zero points to a son/daughter, which classification lacks any intelligible differentia. It is additionally contended that the terminal benefits received by the family of the deceased cannot be considered as a ground to deny compassionate appointment.

4. Learned counsel for the respondents has opposed the petition and submitted that BSNL adopted a uniform Compassionate Appointment Policy based on the DOPT guidelines dated 09.10.1998, operationalized through Policy guidelines dated 27.06.2007. The petitioner's case was duly considered by the High-Powered Committee (HPC) in the year 2008 and was found to fall short of the minimum threshold of 55 points, the petitioner having secured only 39 points. The rejection order dated 06.07.2015 was communicated to the petitioner by post, and it was his responsibility to show non-service thereof. Further, the death of the petitioner's father occurred on 02.04.2005 and more than two decades have elapsed since then, during which period the family has survived and managed its affairs. A family that has endured for over twenty years without the benefit of compassionate appointment cannot be said to be in sudden or immediate financial crisis the foundational premise for any such appointment. The case, accordingly, deserves no interference in writ jurisdiction.

We have heard learned counsel for the parties and perused the record with care.



5. Before proceeding to examine the facts, it is necessary to recapitulate the well-settled legal position governing compassionate appointments, as repeatedly enunciated by the Hon'ble Supreme Court.

5.1 In *Umesh Kumar Nagpal v. State of Haryana & Ors.*, (1994) 4 SCC 138 : JT 1994 (3) SC 525, a Constitution Bench of the Hon'ble Supreme Court authoritatively laid down the principles governing compassionate appointment. The relevant paras are reproduced below:

“The question relates to the considerations which should guide while giving appointment in public services on compassionate ground. It appears that there has been a good deal of obfuscation on the issue. As a rule, appointments in the public services should be made strictly on the basis of open invitation of applications and met-it. No other mode of appointment nor any other consideration is Neither the Governments nor the public authorities are at liberty to follow any other procedure or relax the qualifications laid down by the rules for the post. However, to this general rule, which is to be followed strictly in every case, there are some exceptions carved out in the interests of justice and to meet certain contingencies. One such exception is in favour of the dependants of an employee dying in harness and leaving his family in penury and without any means of livelihood. In such cases, out of pure humanitarian consideration taking into consideration the fact that unless some source of livelihood is provided, the family would not be able to make both ends meet, a provision is made in the rules to provide gainful employment to one of the dependants of the deceased who may be eligible for such employment. The whole object of granting compassionate



employment is thus to enable the family to tide over the sudden crisis. The object is not to give a member of such family a post much less a post for post held by the deceased. What is further, 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. The posts in Classes III and IV are the lowest posts in non-manual and manual categories and hence they alone can be offered on compassionate grounds, the object being to relieve the family, of the financial destitution and to help it get over the emergency. The provision of employment in such lowest posts by making an exception to the rule is justifiable and valid since it is not discriminatory. The favourable treatment given to such dependent of the deceased employee in such posts has a rational nexus with the object sought to be achieved, viz., relief against destitution. No other posts are expected or required to be given by the public authorities for the purpose. It must be remembered in this connection that as against the destitute family of the deceased there are millions of other families which are equally, if not more destitute. The exception to the rule made in favour of the family of the deceased employee is in consideration of the services rendered by him and the legitimate expectations, and the Change in the status and affairs, of the family engendered by the erstwhile employment which are suddenly upturned.

Unmindful of this legal position, some Governments and public authorities



have been offering compassionate employment sometimes as a matter of course irrespective of the financial condition of the family of the deceased and sometimes even in posts above Classes III and IV. That is legally impermissible.

*It is for these reasons that we have not been in a position to appreciate judgments of some of the High Courts which have justified and even directed compassionate employment either as a matter of course or in posts above Classes III and IV. We are also dismayed to find that the decision of this Court in *Sushma Gosain v. Union of India*' has been misinterpreted to the point of distortion. The decision does not justify compassionate employment either as a matter of course or in employment in posts above Classes III and IV. In the present case, the High Court has rightly pointed out that the State Government's instructions in question did not justify compassionate employment in Class II posts. However, it appears from the judgment that the State Government had made at least one exception and provided compassionate employment in Class II post on the specious ground that the person concerned had technical qualifications such as M.B.B.S., B.E., B.Tech. etc. Such exception, as pointed out above, is illegal, since it is contrary to the object of making exception to the general rule. The only ground which can justify compassionate employment is the penurious condition of the deceased's family. Neither the qualifications of his dependent nor the post which he held is relevant. It is for this reason that we are unable to understand the following observations of the High Court in the impugned judgment:*



"We are of the view that the extraordinary situations require extraordinary remedies and it is open to the Government in real hard cases to deviate from the letter and spirit of the instructions and to provide relief in cases where it is so warranted. To hold as a matter of law that the Government cannot deviate even minutely from the policy of providing appointment only against Class III and Class IV posts, would be to ignore the reality of life these days. It would be ridiculous to expect that a dependant of a deceased Class I Officer, should be offered appointment against a Class III or IV post. While we leave it to the Government to exercise its discretion judiciously in making appointments to Class I or II posts on compassionate grounds, yet a word of caution needs to be struck. It is to be noted that such appointments should be ordered in the rarest of rare cases, and in very exceptional circumstances. As a matter of fact, we would recommend that the Government should frame a policy even for such appointments."

It is obvious from the above observations that the High Court endorses the policy of the State Government to make compassionate appointment in posts equivalent to the posts held by the deceased employees and above Classes III and IV. It is unnecessary to reiterate that these observations are contrary to law. If the dependant of the deceased employee finds it below his dignity to accept the post offered, he is free not to do so. The post is not offered to cater to his status but to see the family through the economic calamity.

For these very reasons, the compassionate employment cannot be granted after a lapse of a reasonable period which must be specified in the rules. The consideration for such employment is not a vested right which can be



exercised at any time in future.”

6. In State of J&K and Ors. v. Sajad Ahmed Mir, (2006) 5 SCC 766, the Hon'ble Supreme Court, dismissing a claim for compassionate appointment made after a period of four and a half years from the date of death, observed as under:

" Having heard the learned Counsel for the parties, in our opinion, the appeal should be allowed. Certain facts are not in dispute. The father of the applicant who was in service, died in harness in March, 1987 and for the first time, the application was made by the applicant after more than four years i.e. in September, 1991. The family thus survived for more than four years after the death of the applicant's father. Even at that time, the applicant, under the relevant guidelines, could not have been appointed and hence relaxation was prayed. It is no doubt true that the case of the applicant was favourably considered by the Departments and recommendation was made, but it is also a fact which has come on record that in March, 1996, a decision was taken by the authorities not to give appointment to the applicant on compassionate ground. From the affidavit in reply filed by the authorities in the High Court as also from the finding of the learned single Judge, it is clear that the applicant had knowledge about rejection of his application in 1996 itself. Nothing was done by the applicant against the said decision. Considerable period elapsed and only in 1999, when there was some inter-Departmental communication and Administrative Officer informed the Chief Engineer vide a letter dated 8th June, 1999 that the applicant could not be appointed on compassionate ground that the applicant woke up and filed a



writ petition in the High Court. It is also pertinent to note that the letter of 1999 itself recites that the case of the applicant for compassionate appointment was considered and the prayer had already been turned down by the Administrative Department and the said fact had been communicated to the office of the Chief Engineer. A copy of the said letter was also annexed to the letter of 1999. In our opinion, therefore, the learned single Judge was right in dismissing the petition on the ground of delay and laches by holding that the applicant had not done anything for a considerable period after March, 1996 when his claim was rejected even though he was informed about the decision and was very much aware of it. The Division Bench, in our view, was not justified in setting aside the said order and in directing the authorities to consider the case of the applicant for compassionate appointment and by giving directions to give other benefits.

We may also observe that when the Division Bench of the High Court was considering the case of the applicant holding that he had sought 'compassion', the Bench ought to have considered the larger issue as well and it is that such an appointment is an exception to the general rule. Normally, an employment in Government or other public sectors should be open to all eligible candidates who can come forward to apply and compete with each other. It is in consonance with Article 14 of the Constitution. On the basis of competitive merits, an appointment should be made to public office. This general rule should not be departed except where compelling circumstances demand, such as, death of sole bread earner and likelihood of the family suffering because of the set back. Once it is proved that in spite of death of



bread earner, the family survived and substantial period is over, there is no necessity to say 'goodbye' to normal rule of appointment and to show favour to one at the cost of interests of several others ignoring the mandate of Article 14 of the Constitution.

7. Applying the above-stated settled propositions of law to the facts of the present case, this Court finds itself unable to extend any relief to the petitioner. The father of the petitioner died on 02.04.2005. More than twenty years have since elapsed. The family consisting of the petitioner's mother, two sisters (who were unmarried at the relevant time) and the petitioner himself has not only survived but managed its affairs through these two decades. The petitioner has also completed his engineering degree during this period, which itself signifies that the family was not reduced to immediate penury or destitution. The whole raison detre of compassionate appointment the mitigation of a sudden, immediate financial crisis stands extinguished with the passage of time. A claim pressed after twenty years cannot be said to address any emergency, the emergency, if it ever existed, has long since passed.

8 . On the issue of limitation, the petitioner's contention that the rejection letter dated 06.07.2015 was never served upon him deserves careful scrutiny. The burden of proving non-service ordinarily lies on the party asserting it. However, even accepting for the sake of argument that the petitioner first received information of the rejection in January 2020, the reality remains that from 2005 to 2020, a period of fifteen years transpired without any conclusive adjudication before a competent forum. The Central



Administrative Tribunal, upon consideration of the entire material, found the petition to be barred by limitation as also devoid of merit. We see no perversity in that finding warranting interference under Article 226.

9. The petitioner has urged that the applicable policy ought to be the one prevalent at the time of the death of the employee, placing reliance upon (i) *Malaya Nanda Sethy v. State of Orissa*, 2024 (15) SCC 766; (ii) *Dharmendra Kumar Tripathi v. State of M.P.*, 2022 SCC OnLine MP 1697; (iii) the order in Misc. Petition No. 4473 of 2025 (*Union of India v. Jitendra Verma*), decided by this Court on 25.02.2026; and (iv) *Amit Malhotra v. Chairman, Managing Director, BSNL*, 2023 SCC OnLine J&K 257. It is submitted on the basis of these authorities that the DOPT Policy of 1998, prevalent on the date of the death of the petitioner's father, ought to govern the claim, and not the guidelines of 2007.

10. On the other hand, reliance was placed by the learned counsel of the respondent *SBI v. Raj Kumar*, (2010) 11 SCC paragraph 2,8,12 and 13 relevant for the consideration of the issue

"2. The respondent's father employed as a Messenger in the appellant Bank, died on 1-10-2004. The respondent's mother made applications dated 6-6-2005 and 14-6-2005 requesting for his appointment on compassionate grounds. When the applications were being processed and verified, the Compassionate Appointment Scheme was substituted by the "SBI Scheme for payment of ex gratia lump sum amount" with effect from 4-8-2005. The new Scheme abolished the old Scheme for compassionate appointments and instead provided for payment of an ex gratia lump sum amount as per its



terms.

8. It is now well settled that appointment on compassionate grounds is not a source of recruitment. On the other hand it is an exception to the general rule that recruitment to public services should be on the basis of merit, by an open invitation providing equal opportunity to all eligible persons to participate in the selection process. The dependants of employees, who die in harness, do not have any special claim or right to employment, except by way of the concession that may be extended by the employer under the rules or by a separate scheme, to enable the family of the deceased to get over the sudden financial crisis. The claim for compassionate appointment is therefore traceable only to the scheme framed by the employer for such employment and there is no right whatsoever outside such scheme. An appointment under the scheme can be made only if the scheme is in force and not after it is abolished / withdrawn. It follows therefore that when a scheme is abolished, any pending application seeking appointment under the scheme will also cease to exist, unless saved. The mere fact that an application was made when the scheme was in force, will not by itself create a right in favour of the applicant.

12. Obviously, therefore, there can be no immediate or automatic appointment merely on an application. Several circumstances having a bearing on eligibility, and financial condition, up to the date of consideration may have to be taken into account. As none of the applicants under the scheme has a vested right, the scheme that is in force when the application is actually considered, and not the scheme that was in force earlier when the



application was made, will be applicable.

13. Further, where the earlier scheme is abolished and the new scheme which replaces it specifically provides that all pending applications will be considered only in terms of the new scheme, then the new scheme alone will apply. As compassionate appointment is a concession and not a right, the employer may wind up the scheme or modify the scheme at any time depending upon its policies, financial capacity and availability of posts.

11. We have carefully examined each of these decisions and are of the considered opinion that they are clearly distinguishable on facts and do not advance the petitioner's case.

12. In *Malaya Nanda Sethy* (supra), the Hon'ble Supreme Court directed appointment under the 1990 Rules after explicitly finding that there was no fault or delay whatsoever on the part of the applicant. The application had been made promptly in July 2010, immediately upon the death of the employee. It was the department alone which kept the application pending for nearly a decade without passing any order, causing the old Rules to be replaced by the 2020 Rules in the interregnum. The Hon'ble Supreme Court was at pains to observe that not extending the benefit of the earlier rules in such circumstances would amount to conferring a premium upon the inaction of the authorities. The ratio of *Malaya Nanda Sethy* is thus founded upon the absence of any delay or laches on the part of the claimant and the undisputed pendency of a live application throughout. In the present case, the facts are diametrically opposite. The petitioner's father died on 02.04.2005 and the petitioner did apply on 16.05.2005. However, thereafter, no meaningful



follow-up was made for over a decade. No representation was made between 2005 and 2016, and even the representation of 2016 was not pursued before any adjudicatory forum. It was only in January 2020 fifteen years after the death that the petitioner came to know of the rejection. Far from approaching any forum promptly thereafter, the Original Application before the Tribunal was filed after further considerable delay. The facts, therefore, bear no resemblance to *Malaya Nanda Sethy* where the applicant was a helpless victim of bureaucratic inaction. Here, the prolonged silence was substantially on the petitioner's side. The said decision is therefore of no assistance to the petitioner.

13. *Dharmendra Kumar Tripathi (supra)*, decided by a Division Bench of this Court, also turned on its own peculiar facts. In that case, the petitioner had been granted a contractual appointment which was cancelled within five months, and the application for regular compassionate appointment had never been formally rejected — it remained alive in law. The Division Bench held that a contractual appointment cannot be a substitute for regular compassionate appointment and that the delay, under those facts, was attributable to the respondents. No such facts exist in the present case. Here, the petitioner's claim was formally considered by the High Powered Committee and a reasoned rejection order was passed on 06.07.2015. The rejection on merits on account of the petitioner securing only 39 points against the threshold of 55 cannot be equated with the total non-consideration and illegal substitution of appointment that was in issue in *Dharmendra Kumar Tripathi*. That decision accordingly has no application to



the present facts.

14. The order in Misc. Petition No. 4473 of 2025 (Union of India v. Jitendra Verma) (supra) arose in the context of a Railway employee's compassionate appointment where the claimant was the sole surviving near relative the grandson who had been declared the legal heir and nominee in the deceased's service record and the authorities were found to have adopted an hyper-technical and obstructive approach in defiance of a Tribunal direction. The matter turned entirely upon the interpretation of the "near relative" clause under the Railway Master Circular and the respondent's entitlement thereunder. The question of which policy was applicable, or of delay by the applicant, did not arise at all. The facts of the present case bear no proximity to those in Jitendra Verma and accordingly that decision cannot be pressed into service here.

15. The reliance placed on Amit Malhotra v. BSNL (supra), decided by the High Court of Jammu & Kashmir and Ladakh, is also misplaced. In that case, the petitioner's mother died in harness on 22.08.2005 and the petitioner applied for compassionate appointment immediately upon attaining majority. The claim was rejected after twelve years solely on the basis of the 2007 policy, without any consideration whatsoever under the 1998 policy which was prevalent on the date of death. The High Court found the rejection to be unsustainable for want of a speaking order under the applicable policy and directed a fresh consideration. The distinguishing feature is that in Amit Malhotra, the application had been kept alive through continuous representations and the petitioner had applied promptly upon



majority. There was no allegation of abandonment or prolonged inaction by the petitioner. In the present case, on the other hand, even conceding for argument that the 1998 Policy applies, the foundational precondition for any compassionate appointment the existence of an immediate financial crisis stands wholly extinguished after twenty years. The question of which policy is applied becomes wholly academic when the very purpose of compassionate appointment has been rendered redundant by the passage of time and the family's demonstrable survival.

16. In sum, all four decisions cited by the petitioner deal with situations where either the delay was attributable exclusively to the authorities, or the application had been kept alive through continuous pursuit, or the rejection was made without application of the correct policy. None of them authorises the grant of compassionate appointment after two decades, where the family has long since adapted to its circumstances. The principle emerging from Umesh Kumar Nagpal (*supra*) and Sajad Ahmed Mir (*supra*) that compassionate appointment is intended to tide over an immediate crisis and cannot be claimed as a vested right after the lapse of a reasonable period must prevail over the individual decisions relied upon by the petitioner, which operate in an entirely different factual matrix.

17. The petitioner has also challenged the weightage point system prescribed in the Policy of 2007 as discriminatory under Articles 14 and 15 of the Constitution, specifically on the ground that a widow receives 15 points whereas a son/daughter receives zero. This Court is conscious that a challenge to the vires of a policy requires careful consideration. However,



the formulation of criteria for assessing financial indigence falls squarely within the policy-making domain of the employer, and the scope of judicial review over such decisions is narrow. The differential weightage accorded to a widow, on the premise that she lacks independent means of income, is not on its face an irrational or constitutionally impermissible classification. In any event, since the claim is independently and conclusively unsustainable on account of the passage of over twenty years and the family's demonstrable survival, we refrain from expressing any final view on the constitutional validity of the Policy.

18. The principal contention advanced by the petitioner that his case ought to have been considered strictly under the DOPT Policy dated 09.10.1998, as it was in force on the date of death of the employee, and that the application of the BSNL Policy dated 27.06.2007 vitiates the decision-making process, requires careful consideration. At the outset, it is evident from the record that Bharat Sanchar Nigam Limited (BSNL) has adopted the scheme of compassionate appointment in terms of the guidelines issued by the Department of Personnel & Training (DOPT) vide Office Memorandum dated 09.10.1998. The subsequent Policy dated 27.06.2007 merely operationalizes and structures the said guidelines by introducing a weightage-based assessment mechanism for evaluating the financial condition of the family. Thus, the Policy of 2007 cannot be construed as being de hors or inconsistent with the foundational DOPT guidelines, but rather as a method of implementation to ensure uniformity, objectivity and comparative assessment among competing claimants within the limited



quota.

19. In the present case, the undisputed factual position is that the petitioner's application, though submitted in May, 2005, was duly placed before the competent High Powered Committee in the year 2008. The Committee undertook a holistic evaluation of the financial condition of the petitioner's family, taking into account all relevant parameters including assets, liabilities, family size, presence of earning members and other socio-economic factors, and assigned 39 points out of 100. Since the minimum threshold prescribed for consideration was 55 points, the petitioner's case was found to be falling short of the zone of consideration and was accordingly rejected.

20. This clearly demonstrates that the petitioner's claim was not kept pending indefinitely nor ignored, but was actively considered on merits within a reasonable period of time in accordance with the prevailing administrative framework. The rejection, therefore, cannot be said to be arbitrary or vitiated merely on account of application of the 2007 Policy.

21. The reliance placed by the petitioner on Chief General Manager, BSNL v. Vidya Prasad and State of Madhya Pradesh v. Amit Shrivastava to contend that the policy applicable on the date of death must govern the claim, does not advance his case in the peculiar facts of the present matter. The said judgments were rendered in circumstances where the claim for compassionate appointment was either kept pending without consideration or was rejected solely on the basis of a subsequent policy, without any evaluation under the earlier regime.



22. In contradistinction, the present case is one where the petitioner's application was duly considered by the competent authority in the year 2008 itself, and the rejection was based on an objective assessment of the financial condition of the family. Therefore, it is not a case of retrospective application of a disadvantageous policy, but one of due consideration under an evolved framework intended to give effect to the very same underlying principles.

23. Even otherwise, this Court is of the considered view that the issue as to which policy ought to apply pales into insignificance in the facts of the present case. The foundational requirement for grant of compassionate appointment, as consistently laid down by the Hon'ble Supreme Court in *Umesh Kumar Nagpal v. State of Haryana* and *State of J&K v. Sajad Ahmed Mir*, is the existence of an immediate financial crisis requiring urgent amelioration. Compassionate appointments is not a vested right but an exception carved out to meet sudden hardship.

24. In the present case, more than twenty years have elapsed since the death of the employee. The family has not only survived but the petitioner has completed his engineering education, which itself is indicative of a certain degree of financial stability. The very object of compassionate appointment, namely to tide over a sudden crisis, stands extinguished with the passage of time.

25. Thus, even if the argument of the petitioner regarding applicability of the 1998 Policy were to be accepted for the sake of argument, no direction for appointment can be issued at this belated stage, as the essential condition of immediate financial distress is wholly absent.



26. Accordingly, this ground raised by the petitioner is found to be misconceived and is rejected.

27. In view of above, Misc. Petition is dismissed.

(VIVEK RUSIA)
JUDGE

(PRADEEP MITTAL)
JUDGE

Praveen