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**W.P. No. 794/2019**

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

**BEFORE**

**HON'BLE SHRI JUSTICE JAI KUMAR PILLAI**

**WRIT PETITION No. 794 of 2019**

***NIKHIL KOL***

***Versus***

***UNION BANK OF INDIA AND OTHERS***

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**Appearance:**

***Shri N.P. Choudhary- Advocate for the petitioner.***

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**Reserved on : 23/04/2026**

**Post on : 24/04/2026**

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**ORDER**

The petitioner has preferred the present writ petition under Article 226 of the Constitution of India, seeking the invocation of the extraordinary jurisdiction of this Court. The challenge is specifically directed against the impugned order dated 30/01/2018,



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bearing Annexure P/1, passed by the respondents. By the said impugned order, the competent authority of the respondent Bank has arbitrarily declined the legitimate request of the petitioner for the grant of compassionate appointment following the untimely demise of his father.

2. Through this petition, the petitioner prays for the issuance of a writ of certiorari to effectively quash the impugned order dated 30/01/2018. The petitioner further seeks a writ of mandamus commanding the respondents to appoint him immediately on the post of Peon/Messenger in the Sub-staff cadre. The petitioner claims this appointment from the retrospective date of the death of his deceased father, i.e., 07/08/2016, along with all the consequential and monetary benefits arising thereof.

### **Facts of the Case**

3. The brief facts leading to the filing of this petition are that the petitioner's father, Late Shri Shankar Prasad Kol, was a regular employee of the respondent Bank. He was serving diligently on the substantive post of 'Daftary' at the Sagra Branch in District Rewa, Madhya Pradesh. He completed 22 years and 04 months of continuous and uninterrupted service in the Bank before he



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tragically passed away on 07/08/2016 due to a massive and sudden heart attack while in harness.

4. The petitioner is the only son and a completely dependent, unemployed youth of 20 years of age. His mother had already passed away earlier in the year 2012, leaving the entire family effectively orphaned upon the father's sudden demise. The petitioner belongs to the Scheduled Tribe category and has successfully passed his Class IX examinations in the year 2014 from Jabalpur, thereby fulfilling the basic educational criteria required for the Sub-staff cadre.

5. The untimely death of the sole bread earner has left the surviving family in a state of utter destitution and severe financial ruin. The petitioner bears the heavy liability of maintaining a family of six members, including his own wife and a one-year-old son. Furthermore, he has the immense responsibility of looking after three unmarried, school-going sisters aged 18, 16, and 14 years, who are currently pursuing their education in Classes X, XII, and IX at Jabalpur.

6. The entire family was solely and exclusively dependent upon the monthly salary of the deceased father, and they are now completely hand to mouth without any earning member. A new



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scheme for compassionate appointment was introduced by the respondents on 19/01/2015, which was made effective retrospectively from 05/08/2014. Under this specific scheme, the petitioner promptly submitted a comprehensive application to Respondent No. 3, seeking immediate compassionate appointment.

7. The petitioner's application was duly scrutinized, heavily recommended by Respondent No. 3, and formally forwarded to Respondent No. 2 vide official correspondence dated 30/01/2017. The petitioner was continuously assured by the local authorities that the appointment would be granted very shortly. However, after an inordinate and unexplained delay, the respondents abruptly declined the appointment vide the impugned non-speaking order dated 30/01/2018, completely shattering the family's hopes.

#### **Contentions of the Petitioner**

8. The principal contention of the petitioner is that the respondents have arbitrarily and unlawfully refused the appointment on the completely false plea of an "unsatisfactory service record" of his late father. It is vehemently argued that there is absolutely no such exclusionary provision or penal clause laid down in the existing compassionate appointment scheme.



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Therefore, importing an alien ground to deny survival benefits is highly unjust and legally unsustainable.

9. The petitioner further contends that the primary object of the prevailing scheme is to provide immediate financial assistance to the dependent members of a deceased employee. Late Shri Shankar Prasad Kol served the Bank cleanly, and no major penalty was ever initiated against him during his entire 22-year tenure. The family is facing immense hardships, and denying the appointment defeats the very socio-economic purpose for which the benevolent policy was originally framed.

10. It is additionally pleaded that the respondents caused an unreasonable and inordinate delay of 28 months before issuing the arbitrary rejection, which reflects non-application of mind. The petitioner places strong reliance on the judgments of this Hon'ble Court in the cases of **RinkuRazak V/s. State Bank of India (W.P. No. 14428 of 2014)**, wherein similar arbitrary actions of the Bank were set aside by this Court.

### **Contention of Respondent**

11. Upon the institution of this writ petition, notices were duly issued to the respondents, which were successfully and validly served upon them on 13/02/2019. Despite the unquestionable



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service of notice, the respondents have consciously chosen not to enter their appearance before this Court. No vakalatnama has been filed on their behalf, and no reply or return has been placed on record to controvert the pleadings and contentions raised by the petitioner.

### **Analysis and Conclusion**

12. Since the respondents have completely failed to represent themselves or file any reply despite the service of notice back in February 2019, this Court is compelled to proceed ex-parte. Looking into the sheer gravity of the case, the highly penurious condition of the surviving dependents, and the immense delay that has already occurred, this Court deems it appropriate and strictly in the interest of justice to finally hear and adjudicate this matter without awaiting any further response.

13. The law relating to compassionate appointment is well-settled and no longer *res integra*. The Hon'ble Supreme Court, in the case of **The State of West Bengal versus DebabrataTiwari&Ors. (Civil Appeal Nos. 8842–8855 of 2022, decided on 03/03/2023)**, has authoritatively summarized the governing principles which reads as under:-

*“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.”*

**14.** The Apex Court has consistently ruled that such appointment makes a strict departure from the general recruitment rules and is an exception aimed at enabling the family to tide over a sudden financial crisis. It is not a vested right to be claimed after a long lapse of time, nor is it an alternative source of recruitment. The appointment must be provided immediately, keeping in view the family's overall financial condition, liabilities, and total absence of alternative livelihood.

**15.** Keeping the aforesaid binding principles in mind, I have carefully and thoroughly perused the impugned rejection order dated 30/01/2018 (Annexure P/1). The same reads verbatim as under:

“With reference to your application on the captioned subject, we have to inform that the matter was placed before the Competent Authority and taking into account the unsatisfactory service record of Late Shri Shankar Prasad Kol, the Committee Compassionate Appointment has not considered your request for compassion appointment as per the Scheme /Bank's rules.



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Accordingly, the Bank has declined your request for compassionate appointment the Bank.”

16. A meticulous scrutiny of the aforementioned rejection order clearly reveals that it does not contain or cite any specific clause of the applicable policy which mandates that an "*unsatisfactory service record*" can be a valid ground for rejection. The respondents have completely failed to demonstrate how this alien criterion was imported into the decision-making process when the prevailing compassionate appointment scheme does not contemplate any such exclusionary provision.

17. This Court is utterly surprised as to how the alleged unsatisfactory service record of the petitioner's father can suddenly be weaponized as a ground for the outright rejection of a compassionate appointment claim. The authorities have totally bypassed the very essence and strict text of their own compassionate appointment policy. The petitioner had applied promptly, and the family's acute destitution is undisputed on record, yet the claim was mercilessly defeated on wholly extraneous grounds.

18. These types of mechanical and apathetic rejections, which quote non-existent or legally unsupported reasons, are heavily criticized and strongly deprecated by this Court. The rejection is



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demonstrably arbitrary, legally perverse, and entirely against the established statutory law of compassionate appointment. Consequently, the impugned action cannot be sustained in the eyes of law, and the writ petition therefore deserves to be fully allowed to secure the ends of justice.

19. Accordingly, the Writ Petition is **allowed**. The respondents are hereby directed to reconsider the claim of the petitioner for compassionate appointment afresh, strictly in accordance with the prevailing policy, and without being influenced by the extraneous ground mentioned in the quashed order dated 30/01/2018.

20. Let this exercise be completed, and an appropriate reasoned order be passed, within a period of **sixty (60) days** from the date of receipt of a certified copy of this order. It is made clear that if the petitioner is found eligible, the appointment shall be prospective in nature.

21. This Court takes strong exception to the glaringly apathetic approach adopted by the respondent authorities. The record reveals that the petitioner applied for compassionate appointment promptly after his father's demise on 07/08/2016. However, the respondents kept the matter pending for an inordinate period and ultimately rejected it on 30/01/2018 on a vague, extraneous ground that finds



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no mention in the prevailing policy. Consequently, the petitioner has been forced to endure severe financial hardship and prolonged agony from 2016 till date for the realization of his legitimate claim. The conduct of the respondents first in causing unreasonable delay in decision-making, and subsequently in totally failing to file any reply before this Court despite being duly served as far back as 13/02/2019 smacks of glaring arbitrariness and a highly unilateral approach towards a benevolent welfare scheme.

22. Such conduct is unacceptable and is strongly deprecated by this Court. To compensate for the unwarranted harassment and immense hardship inflicted upon the impoverished petitioner, a cost of **Rs. 50,000/- (Rupees Fifty Thousand only)** is imposed upon the respondents. The said cost shall be paid to the petitioner by way of a Demand Draft within a period of **thirty (30) days** from the date of receipt of a certified copy of this order.

23. Before parting with this matter, this Court deems it imperative to record a strict word of caution directed at the respondent authorities and competent officers regarding the adjudication of compassionate appointment claims. It is a well-settled proposition of administrative law that authorities are duty-bound to pass reasoned and speaking orders, strictly confining their scrutiny to the four corners of the prevailing policy without



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importing alien or unwritten criteria, such as the deceased's past service record in the present case. Dependents applying under such benevolent schemes are already battling severe penury and sudden financial destitution subjecting them to mechanical, cryptic, or arbitrary rejections based on extraneous grounds not explicitly mentioned in the scheme cruelly defeats the very objective of the welfare measure and inflicts unwarranted harassment upon vulnerable citizens.

24. Furthermore, the mandatory requirement of recording explicit, policy-backed reasons is essential to safeguard against the arbitrary exercise of executive power and to facilitate effective judicial review by the Constitutional Courts. Therefore, the authorities are strictly warned that any future rejection orders found to be bereft of proper reasoning or based on fabricated grounds outside the governing policy will be viewed with profound judicial displeasure.

25. With the aforesaid observations and directions, the Writ Petition stands **allowed**. Pending applications, if any, shall be **disposed of** accordingly. No order as to costs.

**(Jai Kumar Pillai)**  
**Judge**

*Arun/-*