

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**THE HON'BLE THE CHIEF JUSTICE SRI APARESH KUMAR SINGH
AND**

THE HON'BLE SRI JUSTICE G.M.MOHIUDDIN

WRIT APPEAL No.267 of 2026

DATE: 05.03.2026

Between:

S. Sanjeev

....Appellant

And

The Superintending Engineer,
Operation Circle, TSNPDCL,
OP, Nirmal District, Telangana State
and 2 others

....Respondent

JUDGMENT

Heard Sri D.L.Pandu, learned counsel for the appellant and Sri A.Chandra Shaker, learned Standing Counsel for TGNPDCL appearing for the respondents and perused the record.

2. This writ appeal, preferred under Clause 15 of the Letters Patent, assails the order dated 05.12.2025 passed by the learned Single Judge in W.P.No.778 of 2024. By the said order, the learned Single Judge dismissed the writ petition filed by the appellant herein, wherein he had sought declaration of the rejection order dated 17.07.2020 issued by respondent No.3 as illegal and arbitrary, and sought consequential direction to the respondents to appoint him on compassionate grounds in place of his missing father, who was working as a Lineman in the respondent-Corporation.

Factual background (in brief)

3. The appellant's father, one S. Sayanna, was working as a Lineman in the Bhainsa Division under the respondent-Corporation. While in service, he went missing on 07.03.2012. A complaint in this regard was lodged with the jurisdictional police and, despite efforts made during the course of investigation, his whereabouts could not be traced. The police authorities ultimately issued a certificate declaring the employee as untraceable.

4. The appellant stating that he had completed his Intermediate education and that the family had been left without any source of livelihood after the disappearance of the employee, submitted a representation to the respondents seeking appointment on compassionate grounds.

5. The said request came to be rejected by the Divisional Engineer, Operation Division, Bhainsa, *vide* proceedings in Lr.No.DEE/OP/BNS/JAO/ADM/D.No.221 dated 17.07.2020. In the said order, reference was made to the instructions issued by the Corporate Office at Warangal and to the scheme governing compassionate appointment in respect of missing employees, wherein it was noted that the appellant's father was born on 19.06.1958 and was due to attain the age of superannuation on 30.06.2016. As on the date of his disappearance, i.e., 07.03.2012, the balance period of service left to the appellant's father was only 4 years, 3 months and

23 days, which was less than the minimum period of seven years stipulated under the scheme. On that basis, the respondents concluded that the appellant's case did not satisfy the conditions prescribed under the scheme and consequently rejected his claim.

6. Aggrieved by the said rejection order, the appellant approached this Court *vide* W.P.No.778 of 2024 seeking the set aside of the proceedings dated 17.07.2020 and for a direction to the respondents to appoint him on compassionate grounds. The learned Single Judge, upon hearing the parties and upon examining the terms of the applicable scheme, dismissed the writ petition holding that the rejection of the appellant's claim was in consonance with the clear stipulations contained in the instructions governing the compassionate appointment particularly in view of the fact that the missing employee had less than 7 years of service remaining on the date of his disappearance.

7. Aggrieved by the said order, the present writ appeal has been filed.

Contentions on behalf of the appellant

8. Learned counsel appearing for the appellant, assailed the order of the learned Single Judge as well as rejection order dated 17.07.2020 and has raised the contentions as under:

- i. That the scheme relating to compassionate appointment is a beneficial measure intended to provide immediate relief to the distressed families. Being a social welfare measure, it must receive a liberal and purposive construction, not a rigid or mechanical one. The learned Single Judge, by strictly applying the exclusion clause, has frustrated the very object of the scheme.
- ii. That the appellant's family has been left in a state of acute financial hardship after the disappearance of the employee and had no other earning member. The family has been waiting for over a decade for relief. However, the humanitarian aspect of the case was completely ignored by the learned Single Judge, who focused only on the technicalities of the scheme.
- iii. By placing reliance on Section 108 of the Indian Evidence Act, 1872, it was contended that where a person has not been heard of for a period of seven years by those who would naturally have heard of him, a presumption of death arises. Since the appellant's father has remained untraceable since 07.03.2012, the case ought to have been treated on par with a case of death in harness rather than under the category of missing employees.
- iv. That the rejection order dated 17.07.2020 is mechanical and bereft of proper reasoning, as the respondents merely reproduced the relevant clause of the scheme without properly

considering the peculiar circumstances of the appellant's family and the object of compassionate appointment.

- v. That the scheme itself mandates that a request for compassionate appointment in cases of missing employees can be considered only after the lapse of seven years from the date of disappearance. Consequently, the appellant had no option but to wait for the completion of the said statutory period. Thus, the respondents ought not to have relied upon the remaining period of service of the employee to deny relief.
- vi. That the rejection of the appellant's claim is arbitrary and violative of Articles 14 and 16 of the Constitution of India, inasmuch as the appellant's case was not examined in a fair and reasonable manner and the object of the scheme was ignored.

Contentions on behalf of the respondent

9. Learned Standing Counsel for respondent-Corporation has supported the order of the learned Single Judge and raised the contentions as under:

- i. That compassionate appointment is not a matter of right, but is a concession governed strictly by the terms of the scheme framed by the employer. The scheme clearly stipulates that the benefit shall not be available in cases where the missing employee had less than seven years of service remaining before

the date of superannuation. In the present case, the appellant's father had only 4 years, 3 months and 23 days of service remaining as on the date of his going missing and, therefore, the appellant's claim squarely falls within the exclusion clause contained in the scheme.

- ii. That the scheme itself draws a clear distinction between cases of "death in harness" and those relating to "missing employees," each category being governed by separate conditions. The presumption of death under Section 108 of the Evidence Act cannot be invoked to convert a case of missing into one of death in harness, for the purpose of claiming compassionate appointment.
- iii. That compassionate appointment constitutes an exception to the normal rule of recruitment to public service, which must ordinarily be made through open competition. It is well settled that the provisions relating to such appointment must be strictly construed and cannot be expanded beyond the framework of the governing scheme.
- iv. That the rejection order is neither mechanical nor arbitrary. The competent authority has taken into consideration, the facts including the date of birth of the employee, the date of his superannuation, and the balance period of service available as on the date of his going missing, and thereafter applied the provisions of the scheme while rejecting the claim.

- v. That the allegation of discrimination is wholly unsubstantiated, as the appellant has not placed any material on record to demonstrate that dependents of similarly situated employees, who had less than seven years of service remaining, were granted compassionate appointment.
- vi. That the scope of judicial review in matters of compassionate appointment is limited and that when the decision of the authorities is in conformity with the terms of the governing scheme, this Court ought not to interfere merely on sympathetic considerations.

10. We have taken note of the respective contentions urged and perused the material on record.

Consideration by this Court

11. It is pertinent to note that the scheme governing compassionate appointment in cases of missing employees, as adopted by the respondent-Corporation, traces its origin to the policy formulated under the erstwhile Government of Andhra Pradesh in G.O.Ms.No.687 dated 03.10.1977, wherein provision is made for grant of compassionate appointment to a dependent family member in certain contingencies, including cases where a government employee has gone missing and his whereabouts remain unknown for more than seven years, subject to the fulfillment of the conditions stipulated therein. The relevant scheme is reproduced hereunder:

The objective of the compassionate appointment scheme:

The scheme of compassionate appointment is a social security measure to help families of deceased government employees.

Under the scheme, the following are eligible for appointment to a job in government service.

- i. One of the dependent family member of the deceased employee who die in harness, there being no other earning member in the family.*
- ii. One of the dependents of the government employee, who has disappeared and whose whereabouts are not known for more than 7 (seven) years, subject to the following conditions:*
 - a) A request for grant of the benefit of compassionate appointments can be considered only after lapse of 7 (seven) years from the date from which the government servant has been missing, provided that:*
 - i. An FIR (First Information Report) to this effect has been lodged with the Police.*
 - ii. The Police report shall certify that, the missing government employee is not traceable: and*
 - iii. The competent authority feels that the case is genuine*
 - b) This benefit shall not be applicable to the case of government servant:*
 - i. Who had less than 7 (Seven) years to retire on the date from which the FIR is filed*
 - ii. and/or*
 - iii. Who is suspected to have committed framed or suspected to have joined any terrorist /extremist organization or suspected to have gone abroad.*
 - c) While considering the request for compassionate appointment the result of the police investigation shall also be taken in to account.*
 - d) Applications for compassionate appointment from the dependents of such missing government employee shall be entertained within a period of one year from the date of completion of 7 (seven) from the date of filing FIR with police.*

12. In the present case, it is not in dispute that the appellant's case falls under clause (ii) of the scheme, i.e., it pertains to a missing employee. The appellant has complied with the preliminary requirements of the scheme, inasmuch as an FIR was lodged, the

police authorities have certified that the employee is untraceable, and more than seven years have elapsed from the date the employee has been missing. However, the respondents have rejected the appellant's claim by invoking the exclusion clause contained in sub-clause (b)(i), which stipulates that the benefit shall not be applicable in cases where the government servant had less than seven years of service remaining before retirement on the relevant date.

13. The primary grievance of the appellant that the scheme governing compassionate appointment, being a beneficial scheme, ought to receive a purposive and liberal interpretation so as to advance its object of providing immediate financial relief to the family of the employee, does not merit consideration. The legal position governing compassionate appointment is well settled. Appointment on compassionate grounds is not a matter of right, but an exception carved out to the Constitutional mandate of equality of opportunity in public employment. Such appointment can be made only in strict accordance with the terms of the scheme framed by the employer. The Court cannot direct appointment dehors the scheme or dilute the conditions stipulated therein on considerations of sympathy or equity. Consequently, where the scheme itself expressly excludes certain categories, the same must be given full effect and cannot be relaxed by adopting a liberal interpretation.

14. The Apex Court in ***Umesh Kumar Nagpal v. State of Haryana***¹, while elucidating the object of the compassionate appointment, has held as under:

2.....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.

15. Applying the above principles to the facts of the present case, it is evident that the scheme itself draws a clear distinction between two categories of employees: (i) employees who die in harness, and (ii) employees who go missing and whose whereabouts are not known for more than seven years. In respect of the latter category, the scheme imposes specific conditions governing the grant of compassionate appointment. One such condition, contained in Clause (b)(i), provides an express exclusion, namely, that the benefit shall not be applicable if the employee had less than seven years of service left to retire on the date from which the FIR was filed.

16. It is to be noted that the language of the said exclusion clause is clear, unambiguous, and admits of no exception, and is a specific and objective condition incorporated in the scheme itself. In the present case, the appellant's father had only 4 years, 3 months and 23 days of service remaining on the date he went missing. This factual position

¹ (1994) 4 SCC 138

being not in dispute, the case of the appellant squarely falls within the four corners of the exclusion clause. To interpret the clause liberally so as to ignore the said condition would amount to rewriting the scheme, which is impermissible.

17. It is pertinent to note that the Court cannot add to or subtract from the terms of a statutory scheme framed by the employer. The intention of the framers of the scheme is manifest, namely, to restrict the benefit of compassionate appointment in cases of missing employees to situations where the family has been deprived of a substantial period of future earnings, i.e., at least seven years of remaining service. Where the remaining service is less than seven years, the scheme proceeds on the basis that the loss of future earnings is comparatively limited. Therefore, the benefit may not have been extended to such cases.

18. The contention of the appellant that a purposive interpretation should override the plain language of the scheme cannot be accepted. As held by the Hon'ble Supreme Court in ***Union of India v. Deoki Nandan Aggarwal***², the Court cannot rewrite, recast or reframe the legislation, as it possesses no power to legislate. The same principle applies equally while interpreting statutory schemes. The role of the Court is to interpret the law as it stands and not as it ought to be.

² 1992 Supp (1) SCC 323

19. The appellant's submission that the exclusion clause contained in the scheme would not apply, on the ground that his father has not been heard of for a period exceeding seven years and must therefore be presumed to be dead under Section 108 of the Indian Evidence Act, 1872, and that the case ought to be treated on par with one of "death in harness," does not merit acceptance.

20. Section 108 of the Evidence Act provides that when a person has not been heard of for seven years by those who would naturally have heard of him if he had been alive, the burden of proving that he is alive shifts to the person who asserts it, however, it cannot be mechanically imported into an entirely different statutory context, namely, a scheme governing compassionate appointment which contains its own definitions, conditions and limitations. Significantly, the scheme in question does not treat a missing employee as "dead." Instead, it creates a distinct category of employees who have gone missing and whose whereabouts are not known for more than seven years. In respect of this category, the scheme prescribes specific conditions, including the requirement of a waiting period of seven years before an application can be made and the exclusion clause relating to employees who had less than seven years of service remaining.

21. On perusal of the record, it is evident that the scheme appears to have been consciously drafted to address the peculiar situation of

missing employees. The framers of the scheme were evidently aware of the legal presumption of death that may arise after seven years under Section 108 of the Evidence Act. Despite such awareness, they expressly retained the exclusion clause in respect of employees who had less than seven years of service remaining. This clearly indicates that the mere passage of seven years and the consequent evidentiary presumption of death were not intended to automatically confer eligibility for compassionate appointment.

22. Accepting the appellant's submission would render the separate framework in the scheme for missing employees redundant. If every case of disappearance were to be treated as one of "death in harness", the specific conditions prescribed for missing employees, including the seven-year waiting period, would become meaningless. Even otherwise, difficulty would arise in determining the notional date of death. If it is taken as the date of missing, the exclusion clause based on the remaining length of service on that date would still apply; if it is taken as the date after the expiry of seven years, the employee would in most cases have already attained the age of superannuation, in which event the question of "death in harness" would not arise. Thus, the presumption under Section 108 of the Evidence Act cannot be invoked to bypass the clear conditions contained in the scheme governing cases of missing employees, and the appellant's submission in this regard is rejected.

23. It is to be noted that the rejection order dated 17.07.2020 issued by the Divisional Engineer begins by referring to the proposal submitted to the Corporate Office and the instructions received therefrom, and thereafter quotes the relevant provisions of the scheme, and applies the scheme to the facts of the appellant's case.

The relevant portion of said order is extracted hereunder:

3) But, in the instance case Sri Sayanna, Ex-LM (missing on 07-03-2012) date of birth is 19.06.1958 and his actual superannuation date is 30.06.2016, hence his balance period of service is 4 years 03 months and 23 days as on the date of missing and not satisfying the rules stated i.e., Para 2 (ii), (a) and (b) (i), (d) respectively.

4) Therefore, for the said reasons, the Job proposals in respect of Sri S.Sanjeev S/o Sri Sayanna, Ex.LM (missing on 07.03.2012) are hereby rejected and returned along with all Original Certificates/ Documents

From the above, it is evident that the order does not merely reproduce the rule but applies it to the specific facts of the case by calculating the remaining length of service and concluding that the case does not satisfy the conditions of the scheme. Therefore, the allegation that the order is mechanical or passed without application of mind is untenable.

24. As regards the plea of arbitrariness and discrimination under Articles 14 and 16 of the Constitution, no material has been placed on record to demonstrate that similarly situated persons, namely dependents of missing employees having less than seven years of service remaining, were granted compassionate appointment. A bald

allegation of discrimination, in the absence of supporting material, cannot be sustained.

25. Further, the classification made by the scheme between employees having more than seven years of service remaining and those having less than seven years cannot be said to be arbitrary. The distinction bears a rational nexus with the object of the scheme, namely to provide relief to families deprived of a substantial source of future income. Employees having less than seven years of service remaining would soon become entitled to pension and other retiral benefits. Thus, the scheme cannot be faulted for drawing such a distinction.

Conclusion

26. For the foregoing reasons, this Court is of the considered view that the compassionate appointment scheme governing missing employees contains a clear exclusion where the employee had less than seven years of service remaining. The presumption under Section 108 of the Indian Evidence Act cannot be invoked to circumvent the specific conditions of the scheme. The rejection order dated 17.07.2020 is a reasoned order passed in accordance with the scheme and does not suffer from arbitrariness or illegality. Therefore, we find no infirmity in the order dated 05.12.2025 passed in W.P.No.778 of 2024 by the learned Single Judge.

27. Accordingly, the Writ Appeal is dismissed and the order dated 05.12.2025 passed in W.P.No.778 of 2024 is affirmed. It is, however, clarified that this judgment shall not preclude the appellant from availing any remedy that may be available under law for claiming terminal benefits, pension or other dues of his father in accordance with the applicable rules.

As a sequel, miscellaneous petitions, pending if any, stand closed. No costs.

APARESH KUMAR SINGH, CJ

G.M.MOHIUDDIN,J

Date: 05.03.2026
ssp