



2026:KER:38231

W.P.(C) No.14235 of 2024

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE VIJU ABRAHAM

TUESDAY, THE 2<sup>ND</sup> DAY OF JUNE 2026 / 12TH JYAISHTA, 1948

WP(C) NO. 14235 OF 2024

PETITIONER:

SANGEETHA K P  
AGED 35 YEARS  
D/O LATE SANTHA, CHAKKINGAL HOUSE , AREEKODE P.O,  
MALAPPURAM, PIN - 673639

BY ADVS. SMT.RESHMA E.  
SMT.ANNA SONIE  
SMT.ATHIRA V.M.  
SMT.ATHEENA ANTONY

RESPONDENTS:

- 1 THE PLANTATION CORPORATION OF KERALA LTD.,  
REPRESENTED BY ITS MANAGING DIRECTOR  
KOTTAYAM,KERALA, PIN - 686004
- 2 THE SECRETARY TO THE GOVERNMENT  
AGRICULTURAL DEPARTMENT,  
SECRETARIAT , THIRUVANANTHAPURAM, PIN - 695001

BY ADVS.SHRI.ABEL TOM BENNY  
SRI.D.PREM KAMATH  
SRI.TOM THOMAS (KAKKUZHIYIL)  
SHRI.AARON ZACHARIAS BENNY  
SHRI.CLINT JUDE LEWIS  
SMT.BIJITHA B. BOSE  
SMT.JYOTHIKA KRISHNA  
SHRI.ALAN J YOGYAVEEDU

OTHER PRESENT:

SC- N RAJESH

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 02.06.2026, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

**VIJU ABRAHAM, J.****“CR”****W.P.(C) No.14235 of 2024**Dated this the 2<sup>nd</sup> day of June, 2026**JUDGMENT**

The above writ petition is filed challenging Ext.P18 order and seeking a direction to appoint the petitioner as 'Junior Assistant' under the Compassionate Employment Scheme.

2. The brief facts necessary for the disposal of the writ petition are as follows:

The petitioner's mother passed away on 06.10.2001, while she was working as a “worker” under the 1<sup>st</sup> respondent Plantation Corporation Kerala Ltd. The petitioner submitted an application for Compassionate Employment under the dying-in-harness scheme before the 1<sup>st</sup> respondent. As per Ext.P3, the request submitted by the petitioner to include her in the list of Junior Assistants was accepted, and she was included in the list of applicants seeking appointment as Junior Assistant under the Compassionate Employment Scheme. In Ext.P4, the waiting list of Junior Assistant under the Compassionate Employment Scheme, the petitioner is Rank No.3. It is the case of the petitioner that though the petitioner was included in the waiting list in the year 2012, she has not been appointed as a permanent Junior Assistant in the 1<sup>st</sup> respondent Corporation so far. While so, during 2013, the petitioner was appointed



as Junior Assistant on daily wages as per Ext.P5, and the said appointment is still renewed periodically. Thereafter, Ext.P7 communication was issued by the Government directing the 1<sup>st</sup> respondent Corporation to take steps to grant an appointment on the application submitted under the Compassionate Employment Scheme without any delay. The Government issued Ext.P9 Government Order in the matter of Compassionate Employment Scheme to provide employment assistance to the dependents of Government servants who are dying-in-harness under State Public Sector Undertakings, which mandated that the applications for the appointment under the Compassionate Employment Scheme should be submitted to the Administrative Department controlling the concerned Public Sector Undertaking. In compliance with the same, the 1<sup>st</sup> respondent took a Board decision on 09.02.2021 to transfer all applications seeking appointment under the Compassionate Employment Scheme to its Administrative Department, i.e., the Agricultural Department, as per Ext.P10. Subsequent to Ext.P10, Ext.P11 letter was forwarded by the 1<sup>st</sup> respondent to the Government. The petitioner, on the basis of Ext.P13, would submit that there are vacancies of Junior Assistants and that, out of 21 vacancies of Junior Assistants, 16 vacancies are reported to the Public Service Commission, which reveals that 5 posts are set apart for appointment under the Compassionate Employment Scheme. As no action was taken for the appointment of the petitioner under the



Compassionate Employment Scheme, a writ petition was filed as WP(C) No.36244 of 2022, which was disposed of as per Ext.P14 judgment directing the Government to consider and to take a final decision in the matter. Pursuant to Ext.P14 judgment, the 1<sup>st</sup> respondent submitted Ext.P15 letter to the 2<sup>nd</sup> respondent Government enlisting the seniority list of applicants in the Junior Assistant category, wherein the petitioner is included as Sl.No.3. In Ext.P15, it is reiterated by the 1<sup>st</sup> respondent Corporation that out of the 21 vacancies existing in the cadre, 5 vacancies may be allotted to the candidates under the Compassionate Employment Scheme. Thereafter, pursuant to the direction issued in Ext.P14 judgment, the 2<sup>nd</sup> respondent issued Ext.P16 order directing the 1<sup>st</sup> respondent, Plantation Corporation, to take necessary steps to consider the applications submitted under the Compassionate Employment Scheme on seniority basis, for appointment in the existing/arising general/last grade posts in the Corporation, complying with the directions stipulated in Ext.P9 Government Order. In compliance with the directions issued by this Court, Ext.P18 order was issued by the 1<sup>st</sup> respondent denying the appointment of the petitioner, on the ground that in the seniority list of Junior Assistant post under Compassionate Employment Scheme, the petitioner is only Sl. No.3, and there are 40 other candidates above the petitioner in the list, and at present, there are more than 50% employees in the Corporation appointed under the Compassionate Employment Scheme and therefore,



the request of the petitioner for appointment to the post of Junior Assistant under the Compassionate Employment Scheme cannot be considered at present. It is aggrieved by the same that the present writ petition has been filed.

3. A detailed counter affidavit has been filed by the 1<sup>st</sup> respondent mainly contending that while the request of the petitioner for appointment as Junior Assistant under the Compassionate Employment Scheme was pending consideration, she was appointed on a daily wage basis as per Ext.R1(a) proceedings, and as seen in the conditions attached to the engagement of the petitioner in R1(a) proceedings, the engagement of the petitioner is on daily wage basis and on condition that the petitioner shall not raise any claim for permanent appointment in the Corporation in the post of Junior Assistant or in any other post either during the currency of contract or afterwards. It is further submitted that the petitioner accepted Ext.R1(a) on a further condition that the said engagement will not confer any right on her to claim regularisation in employment or preference in any appointment in the Corporation. In view of the conditions in Ext.R1(a), the petitioner cannot now raise any claim for appointment under the Compassionate Employment Scheme. Ext.R1(c) communication was issued by the Government directing to take necessary steps to consider the application under the Compassionate Employment Scheme complying with the stipulations in Ext.P9 Government Order and going by Clause 30(a) of



Ext.P9 Government Order, the appointment under the Compassionate Employment Scheme is to be set off against direct recruitment vacancies and that has to be confined within the 50% of the total vacancies for direct recruitment. It is further contended in the counter affidavit that as of now, 58.18% of the total strength of employees have been appointed under the Compassionate Employment Scheme, and any appointment made will be in violation of the conditions in Ext.P9 Government Order. It is further stated that since the Corporation is facing a severe financial crisis, recruitment even in vacancies notified to the Public Service Commission has been kept in abeyance. It is further submitted that there is significant shift in the operational, administrative and functional facets of the Corporation and on account of the same, the respondent Corporation has to revise its staff pattern and therefore, has initiated efforts for restructuring the staff pattern and the vacancy position in each cadre and it can be finalised only after the completion of this exercise which owing to its very extensive nature in time and labour intensive exercise and that until such exercise is completed, nothing can be conclusively stated regarding the vacancy positions in various cadres in the Corporation including those to be appointed under the Compassionate Employment Scheme. It is also submitted that there are other eligible candidates waiting for appointment under the Compassionate Employment Scheme for a longer period than the petitioner. On the basis of the same, it is submitted by the 1<sup>st</sup> respondent



that the petitioner is not entitled to any of the reliefs as sought for in the writ petition.

4. An additional counter affidavit has been filed by the 1<sup>st</sup> respondent as directed by this Court on 06.12.2024, wherein it is stated that since the employment under the Compassionate Employment Scheme is not a method of appointment and is only intended to get over the penury caused to the family of the deceased, the compassionate employment cannot be claimed and offered after a lapse of time. In the additional affidavit it is reiterated that going by Ext.P9 Government Order, the appointment under Compassionate Employment Scheme is to be set off against direct recruitment vacancies and that has to be confined within the 50% of the total vacancies for direct recruitment and at present appointments under the Compassionate Employment Scheme constitute 58.78% of the total cadre strength, and therefore, if any appointment is made, it will be in violation of the conditions in Ext.P9 Government Order. On the basis of the same, the learned counsel appearing for the 1<sup>st</sup> respondent sought dismissal of the writ petition.

5. Heard the rival contentions on both sides.

6. A perusal of Ext.P18 would reveal that the request of the petitioner for appointment under the Compassionate Employment Scheme has not been rejected, but it only says that the appointment under the Compassionate Employment Scheme has already exceeded the 50% fixed as per Ext.P9 order and therefore, the claim of the petitioner



will be considered later. Though that is the only reason stated in Ext.P18 to deny the benefit of the petitioner, in the counter affidavit filed, the respondents have taken various other contentions. It is settled law that the order impugned cannot be strengthened by way of filing a counter-affidavit raising various other contentions in support of the same. Since other contentions have been raised, I am of the view that those contentions also have to be considered.

7. One of the contentions raised by the respondent Corporation is that the petitioner has already been engaged on daily wage basis as evident from Ext.R1(a) and it is specified in Ext.R1(a) that the petitioner shall not raise any claim for permanent appointment in the Corporation in the post of Junior Assistant or in any other post either during the currency of contract or afterwards and therefore, the petitioner cannot claim an appointment after he has accepted Ext.R1(a). But the said contention cannot be accepted at all since in Ext.R1(a), there is no undertaking given by the petitioner, nor is there any condition stipulating that once the petitioner has been appointed temporarily on a daily wage basis as per Ext.R1(a), the petitioner has forgone the right for appointment under the Compassionate Employment Scheme. Therefore, the said contention is only to be rejected.

8. Further contention raised in the counter affidavit is that the Corporation is facing a serious financial crisis, and it does not favour large-scale permanent appointments, inviting huge financial obligation



and that they have kept in abeyance even recruitment in vacancies notified to the Public Service Commission. Therefore, the question to be decided is whether a ban on regular appointments would automatically act as a bar for making any compassionate appointment. I am of the view that it can never act as a bar for appointment under the Compassionate Employment Scheme, since the Compassionate Employment Scheme is treated as an exemption to help a family to survive the sudden financial destitution. The High Court of Mumbai in ***Sunil Gundu Desai v. State of Maharashtra & Others [2021 Supreme(Bombay) 1204]*** has considered an issue as to whether the Government resolution imposing a ban on fresh recruitment will apply to the appointments made in the Compassionate Employment Scheme and held that the Government Resolutions imposing ban on fresh recruitment do not apply to appointments made on compassionate basis, as they are kept outside the purview of the general ban. High Court of Mumbai in ***Anusaya W. d/o Anil Bhosale v. The State of Maharashtra [2025 Supreme(Bombay) 2002]*** considered a similar question and held that Compassionate appointments are exempted from recruitment bans aimed at new posts, as their purpose is to assist families in financial distress, following the death of a breadwinner. The Court, while entering into such a conclusion, has also held that the appointment under the Compassionate Employment Scheme does not constitute a new post creation and it should be treated distinctly from regular recruitment



under the Government regulation, emphasising the purpose of mitigating family hardship. Therefore, the contention raised based on the financial difficulties faced by the Corporation and the ban that has been imposed on the appointment, even through the Public Service Commission, cannot be a reason for not considering the claim of the petitioner for compassionate appointment.

9. Another contention raised by the learned counsel for the 1<sup>st</sup> respondent is that since the Compassionate Employment Scheme is to enable the family of the deceased to get over the sudden financial crisis, the petitioner has no right whatsoever to claim any appointment beyond the Scheme and that the petitioner cannot claim appointment at this distance of time. This Court is unable to accept the said contention also essentially for the reason that the claim of the petitioner has been accepted by the Corporation as evident from Ext.P3 and has been included in the pending list for appointment as Junior Assistant under the Compassionate Employment Scheme. Having accepted the entitlement of the petitioner for inclusion in the list for appointment under the Compassionate Employment Scheme, only for the delay in not making an appointment due to want of vacancies, I am of the view that the claim of the petitioner cannot be rejected on the ground of delay in making the appointment.

10. Yet another contention raised by the learned Counsel appearing for the 1<sup>st</sup> respondent, based on Ext.R1(c) Government Order,



is that the steps for consideration of the application under the Compassionate Employment Scheme are to be done in compliance with Ext.P9 Government Order. It is true that in Ext.P9 Government Order, especially in Clause 30 it is mandated that the appointment under the Compassionate Employment Scheme is to be set off against direct recruitment vacancies and that has to be confined within the 50% of the total vacancies for direct recruitment and based on the same it is contended in the additional counter affidavit that as of now the number of persons appointed under the Compassionate Employment Scheme exceeds 50% and therefore, no further appointments could be made and if any appointment is made, the same will violate the conditions in Ext.P9 Government Order. Though a stand has been taken in the counter affidavit that the vacancy to which appointments have been made under the Compassionate Employment Scheme has exceeded 50%, as per the averments in the counter affidavit, it is seen that the Corporation is also not very sure about the vacancy position in respect of various cadres in the Corporation, including those to be appointed under the Compassionate Employment Scheme. Since the Corporation is considering the review of the cadre strength and staff pattern as per the present requirement, the exact number of vacancies available will be clear only after completion of the said exercise. The stand of the respondent Corporation is that the actual vacancies available for being appointed under the Compassionate Employment Scheme can only be



finalised after the exercise of review of the cadre strength and staff pattern. But an important aspect to be noted is that Clause 30(a) of Ext.P9 only says that the appointment under the Compassionate Employment Scheme is to be set off against direct recruitment vacancies and that has to be confined within the 50% of the total vacancies for direct recruitment. So, what is important as per Ext.P9 is that the vacancies set apart for direct recruitment and appointment under the Compassionate Employment Scheme shall be confined within 50% of the total vacancies earmarked for direct recruitment. Since the claim of the petitioner has not been rejected in toto as per Ext.P18, I am of the view that the matter requires reconsideration at the hands of the 1<sup>st</sup> respondent, after exercising the review of cadre strength and staff pattern and earmarking the exact number of vacancies available for being appointed through the Compassionate Employment Scheme.

Therefore, the writ petition is disposed of as follows:

1. The 1<sup>st</sup> respondent shall complete the exercise of restructuring the staff pattern and for quantification of the vacancy position in each cadre regarding the total vacancies that are available for appointment under the Compassionate Employment Scheme, as provided in Clause 30(a) of Ext.P9, without any delay, at any rate, within an outer limit of three months from the date of receipt of a copy of this judgment.
2. After the said exercise is completed, if vacancies are



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available as per Clause 30(a) of Ext.P9, steps shall be taken to make appointments under the Compassionate Appointment Scheme, strictly on the basis of the seniority in Ext.P4(a).

Sd/-  
**VIJU ABRAHAM**  
**JUDGE**

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APPENDIX OF WP (C) NO. 14235 OF 2024

## PETITIONER EXHIBITS

- Exhibit P1 A TRUE COPY OF THE DEATH CERTIFICATE OF THE MOTHER OF THE PETITIONER DATED 27.11.2001 ISSUED BY THE CORPORATION OF CALICUT.
- Exhibit P2 A TRUE COPY OF THE COMMUNICATION BEARING NO PD/PA/6531 DATED 29.12.2008.
- Exhibit P3 A TRUE COPY OF THE COMMUNICATION DATED 18.10.2012 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.
- Exhibit P4 A TRUE COPY OF THE WAITING LIST OF POSTS OF JUNIOR ASSISTANT PREPARED UNDER THE COMPASSIONATE EMPLOYMENT SCHEME UNDER 1ST RESPONDENT CORPORATION.
- Exhibit P4 (a) A TRUE COPY OF THE WAITING LIST OF POSTS OF JUNIOR ASSISTANT PREPARED UNDER THE COMPASSIONATE EMPLOYMENT SCHEME RECEIVED BY ANOTHER INCUMBENT UNDER RTI ACT 2005 DATED 18.11.2023
- Exhibit P5 A TRUE COPY OF THE APPOINTMENT ORDER ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER DATED 31.07.2013.
- Exhibit P6 A TRUE COPY OF THE NOTIFICATIONS ISSUED BY THE KERALA PUBLIC SERVICE COMMISSION ON 31.08.2013 FOR THE YEAR 2013.
- Exhibit P7 A TRUE COPY OF THE ORDER OF 2ND RESPONDENT DATED 19.05.2015 TO THE 1ST RESPONDENT.
- Exhibit P8 A TRUE COPY OF THE LETTER DATED 09.07.2015 ISSUED BY THE 1ST RESPONDENT UNDER THE RIGHT TO INFORMATION ACT.
- Exhibit P9 A TRUE COPY OF THE GOVERNMENT ORDER GO(P) NO. 32/2007/PLG DATED 07.06.2007.
- Exhibit P10 A TRUE COPY OF THE MINUTES OF THE 463RD BOARD MEETINGS OF PLANTATION CORPORATION HELD ON 09.02.2021.
- Exhibit P11 A TRUE COPY OF THE LETTER FORWARDED BY THE 1ST RESPONDENT TO THE PRIVATE SECRETARY OF AGRICULTURE MINISTER DATED 15.03.2021.
- Exhibit P12 THE TRUE COPY OF THE QUESTANIER DATED 20.07.2021 SUBMITTED BEFORE THE 1ST RESPONDENT BY ANOTHER JOB ASPIRANT THROUGH RTI ACT.



Exhibit P13 A TRUE COPY OF THE REPLY TO THE SAME DATED 31.08.2021 RECEIVED THROUGH RTI ACT.

Exhibit P14 THE TRUE COPY OF THE JUDGMENT DATED 21.03.2023 IN WP ( C ) NO.36244 OF 2022.

Exhibit P15 THE TRUE COPY OF THE LETTER DATED 15.05.2023 SENT BY THE 1ST RESPONDENT TO THE 2ND RESPONDENT.

Exhibit P16 THE TRUE COPY OF THE ORDER DATED 08.06.2023 ISSUED BY THE 2ND RESPONDENT.

Exhibit P17 THE TRUE COPY OF THE LETTER SENT BY THE 1ST RESPONDENT TO THE 2ND RESPONDENT DATED 16.12.2023.

Exhibit P18 THE TRUE COPY OF THE ORDER DATED 08.02.2024 ISSUED BY THE 1ST RESPONDENT.

## RESPONDENT EXHIBITS

Exhibit R1(a) True copy of proceedings bearing No. P and A/F/1460/ 2635 dated 31.7.2013 issued to the petitioner.

Exhibit R1(b) True copy of proceedings bearing No.P andA/F/4835 dated 16.2.2024 issued to the petitioner.

Exhibit R1(c) True copy of the communication bearing No.AGRI-PUI/45/2023-AGRI dated 2.6.2023 issued by the 2nd respondent.

Exhibit R1(d) True copy of the judgment of this Hon'ble Court in W.P.(C) No.34175/2016 dated 21.3.2023.

Exhibit R1(e) True copy of the letter dated 21.06.2022 issued by the 1st respondent to the PSC along with its English Translation.