

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

***BEFORE***

**HON'BLE SHRI JUSTICE MILIND RAMESH PHADKE**

**&**

**HON'BLE SHRI JUSTICE PUSHPENDRA YADAV**

**WRIT APPEAL No. 169 of 2023**

***ALOK SHARMA***

***Versus***

***THE STATE OF MADHYA PRADESH AND OTHERS***

---

**Appearance:**

***Shri Harshad Bahirani – Advocate for appellant.***

***Shri Dharmendra Nayak – Government Advocate for respondents/State.***

---

**RESERVED ON : 07/08/2026**

**DELIVERED ON : 14/08/2026**

---

**ORDER**

***Per: Justice Pushpendra Yadav***

1. This intra-court appeal under Section 2(1) of the *Madhya Pradesh Uchcha Nyayalaya (Khand Nyayapeeth Ko Appeal) Adhiniyam, 2005* has been filed challenging the order dated 16/11/2022 passed by the learned Single Judge in WP No.25731/2022; whereby, the writ petition filed by the appellant/petitioner claiming compassionate appointment has been dismissed.
2. Brief facts of the case are that the appellant's father, Late Shri

Rajesh Sharma, Constable (Guard No.27), 13th Battalion, M.P. Special Armed Force (SAF), Gwalior, died-in-harness on 19.01.1998, leaving behind his minor son (the appellant), wife and two daughters. Despite repeated representations for compassionate appointment, the claim was rejected on the ground of delay beyond the prescribed seven-year period. The appellant's subsequent representations and mercy petition were also unsuccessful. Aggrieved, he filed W.P. No. 25731/2022, which was dismissed by the learned Single Judge on 16.11.2022, holding that the object of compassionate appointment had ceased after nearly 24 years and that the appellant was not entitled to the claimed relaxation. Hence, the present appeal is preferred before this Court.

3. Learned counsel for the appellant submits that his father died-in-harness on 19/01/1998 and, at the time of his father's death, he was only one year old; therefore, as per proviso to Clause 3.2 of the policy for compassionate appointment issued by the General Administration Department *vide* Circular No. C 3-12/2013/1/3, Bhopal, dated 29.09.2014 (Annexure P/5 of writ petition), in a case where the first child of the deceased employee is a minor at the time of death of deceased employee, his application can be considered within a period of one year from the date of attaining majority. It is further submitted by learned counsel for the appellant that his mother had applied for compassionate appointment, but the same was rejected by the authority. It is also contended that he has two elder sisters and he is the only boy (son) in the family; therefore, his case may be considered exceptionally

under the policy for compassionate appointment.

4. *Per contra*, learned counsel for respondents/State while supporting the impugned order opposed the prayer and prayed for dismissal of this writ appeal by submitting that all the representations made by the appellant were duly considered and rejected by passing reasoned orders. It was further submitted that compassionate appointment is not a regular mode of recruitment and, after nearly 25 years from the death of the employee, the purpose of providing immediate financial help to the family no longer survives.
5. Heard the learned counsel for parties and perused the policy for compassionate appointment as well as the documents placed on record.
6. Before considering the rival submissions, it would be apt to consider the relevant provision (Clause 3.2) of the policy for compassionate appointment issued by the General Administration Department vide Circular No. C 3-12/2013/1/3, Bhopal, dated 29.09.2014 (Annexure P/5 of writ petition), which reads as under :-

3.2 सभी प्रकार के अनुकंपा नियुक्ति के प्रकरणों में शासकीय सेवक की मृत्यु दिनांक से 07 (सात ) वर्ष तक पद उपलब्ध होने पर ही उसके आश्रित को अनुकंपा नियुक्ति की पात्रता होगी।

परन्तु मृत शासकीय सेवक की यदि प्रथम संतान मृत्यु की तिथि को अवयस्क होवें तो केवल ऐसी प्रथम संतान को वयस्क होने की तिथि से एक वर्ष तक अनुकंपा नियुक्ति अन्यथा पात्र होने की दशा में प्रदान की जा सकेगी।

7. From perusal of aforesaid Clause 3.2, it is clearly revealed that the

dependent would be entitled for compassionate appointment if a post is available within a period of 7 years from the date of death of deceased employee. Its proviso further prescribes that, in case where the “first child (प्रथम संतान)” of the deceased employee is a minor on the date of death of the deceased employee, his application can be considered within one year from the date of attaining majority.

8. In the present case, the claim of appellant is not covered in the main provision i.e. Clause 3.2 of the policy as the father of appellant died-in-harness in the year 1998 and the seven-year window under Clause 3.2 expired on 18.01.2005. Her mother also filed the applications for compassionate appointment that were rejected by the authority. So far as the defense of the appellant that his case is covered under the proviso to Clause 3.2 of the policy, this Court is of the opinion that case of appellant is also not covered in the proviso to Clause 3.2 of the policy because it talks about the “first child (प्रथम संतान)” of the deceased employee and admittedly, the appellant is having two elder sisters and is therefore not the “first child (प्रथम संतान)”.
9. The appointment on compassionate ground is not a regular source of recruitment; rather, it constitutes a carefully circumscribed exception to the equal-opportunity mandate of Articles 14 and 16 of the Constitution of India, permitting appointment dehors the ordinary recruitment process and open competition. The object of this scheme is not to confer a hereditary entitlement upon the family of the deceased employee, but to provide immediate

succour and to help the family out of financial distress, having been suddenly deprived of its breadwinner and cast into destitution. Therefore, where a considerable span of time has elapsed since the death of the deceased employee and the family has, in fact, survived that period without such appointment, the very foundation on which compassionate appointment rests stands eroded, and belated claims cannot be entertained.

10. However, in the present case, it is an admitted fact that the father of the appellant died-in-harness on 19/01/1998 and thereafter, a period of more than 25 years has elapsed. Thus, when the family has survived for a period of more than 25 years since the date of death of the deceased employee, then such belated prayer for appointment on compassionate ground can not be considered as the fundamental object of the policy for compassionate appointment is to provide immediate financial help to the bereaved family to overcome sudden destitution and it cannot be treated as an alternative mode of general recruitment.
11. So far as the contention of the appellant that his case should be considered because he is the “only boy” in the family is concerned, the same cannot be accepted. The aforesaid Clause does not differentiate or create a class within a class between girls and boys; it strictly refers to the “first child (प्रथम संतान).” Any such differentiation would be violative of the basic principles of the Constitution of India, which explicitly prohibits discrimination on the basis of gender.
12. In view of the aforesaid cumulative analysis, in the considered

opinion of this Court, the learned Writ Court has rightly appreciated the facts of the case and correctly applied the law. There is no illegality or infirmity in the impugned order warranting any interference by this Court.

- 13.** Accordingly, the present appeal, being sans merit, deserves to be and is hereby **dismissed**.

**(MILIND RAMESH PHADKE)**  
**JUDGE**

**(PUSHPENDRA YADAV)**  
**JUDGE**