



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR**

S.B. Civil Writ Petition No. 8252/2015
CNR: RJHC010446742015 | URN: CW / 19093U / 2015

Avinash Bhatnagar S/o Shri Jaswant Singh Bhatnagar, Aged about 34 years, R/o D-46, Hawa Magri, RHB Colony, Sector 14, Hiran Magri, Udaipur, Rajasthan.

-----Petitioner

Versus

1. The Rajasthan State Road Transport Corporation through the Chairman & Managing Director, Head Quarter Jaipur, Rajasthan.
- 2.The Member Secretary, Service Selection Committee, Rajasthan State Road Transport Corporaton, H.Q. Jaipur, Rajasthan.
3. The Executive Director (Transport), Rajasthan State Road Transport Corporation, Jaipur, Rajasthan.
4. The Chief Manager Udaipur Depot, Rajasthan State Road Transport Corporation, Udaipur, Rajasthan.

-----Respondents

For Petitioner(s) : Mr. Sukesh Bhati
For Respondent(s) : Mr. Sunil Purohit
Ms. Darshita Pungaliya

HON'BLE MR. JUSTICE BIPIN GUPTA

Judgment/Order

Reportable

Date of hearing and conclusion of arguments	06.10.2026
Date on which the judgment was reserved	06.10.2026
Whether the full judgment or only the operative part is pronounced	Full Judgment
Date of pronouncement	09.10.2026



1. The present writ petition has been filed with the following prayers:

"It is therefore, most humbly and respectfully prayed that this Petition may kindly be allowed; and by an appropriate writ, order or direction;

- i. The record of the case may kindly called for;*
- ii. The respondents may kindly be directed to extend appointment to the petitioner on the post of ATI as per the educational qualification held by him and in pursuance to the Guidelines/ Decision dated 26.06.2010;*
- iii. The respondents may kindly be restrained from giving the retrospective effect to the Decision dated 18.01.2012 and to deny the petitioner compassionate appointment on the post of ATI.*
- iv. Any other appropriate Petition, order or direction which the facts and circumstances of the case warrants be issued and;*
- v. Costs of the petition be allowed in favour of the Petitioner."*

2. The facts in a nutshell, are that the petitioner's father, Late Shri Jaswant Singh, was working on the post of 'Post Deliveryman' in the respondent-Corporation. He died in harness on 20.05.2010, leaving behind his wife and two sons. Initially, the petitioner's elder brother, namely, Abhishek Bhatnagar, applied for compassionate appointment on the post of Assistant Engineer (Civil), being qualified as B.E. (Civil). His application was declined vide communication dated 02.08.2010 (Annexure-1) on the ground that the post of Assistant Engineer (Civil) did not exist in the respondent-Corporation and, therefore, could not be offered on compassionate grounds.

2.1 Thereafter, the petitioner submitted an application dated 05.01.2011 (Annexure-3) seeking compassionate appointment on the post of Assistant Traffic Inspector, on the basis of his





educational qualifications, namely, MBA with Second Division along with graduation. The petitioner's case was processed by the competent authorities and forwarded to the higher authorities with favourable remarks for consideration of his appointment against the post of ATI. The relevant note-sheets have also been placed on record.

2.2 During the pendency of the petitioner's claim, the matter was considered by the competent Committee. Vide order dated 30.01.2012 (Annexure-5), the Committee resolved to restrict compassionate appointments to only four posts specified therein. Consequently, the petitioner was not offered appointment on the post of Assistant Traffic Inspector and was instead offered appointment on the post of Conductor.

2.3 Pursuant to the offer of appointment dated 12.07.2013 (Annexure-7), the petitioner accepted the same and joined his duties on the post of Conductor on 18.07.2013 (Annexure-R/1). Subsequently, the petitioner submitted a notice for demand of justice dated 04.05.2015 (Annexure-9) seeking appointment on the post of Assistant Traffic Inspector instead of Conductor, primarily on the ground that, pursuant to the subsequent decision dated 30.07.2013, the relevant guidelines were again amended vide order dated 06.08.2013 (Annexure-8) and the post of Assistant Traffic Inspector was included amongst the posts against which compassionate appointment could be offered.

2.4 As the aforesaid notice was neither replied to nor acted upon, the petitioner preferred the present writ petition seeking the reliefs as stated hereinabove.



3. Learned counsel for the petitioner submitted that the petitioner's case had initially been processed by the competent authorities for appointment to the post of Assistant Traffic Inspector and had been favourably forwarded to the higher authorities. It was further submitted that seven posts, namely, Assistant Traffic Inspector, Computer, Deputy Stores Inspector, Driver, Conductor, Artisan Grade-III and Junior Clerk (for female dependents only), were available, against which a person could have been offered compassionate appointment.

3.1 Learned counsel for the petitioner submitted that, as on the date of death of the petitioner's father, the Compassionate Appointment Orders of 2010, were applicable to the respondent-Corporation, and according to the said rules, the aforesaid seven posts could have been filled by way of compassionate appointment and appointment could have been offered to the petitioner.

3.2 Learned counsel for the petitioner further submitted that the application filed by the petitioner seeking appointment to the post of Assistant Traffic Inspector was forwarded by the respondent authorities with favourable remarks.

3.3 Learned counsel for the petitioner submitted that subsequently, during the pendency of his application and before the final decision thereon, the rules were modified vide order dated 30.01.2012 (Annexure-5), whereby, out of the seven posts, three posts were deleted and only four posts were to be offered for compassionate appointment, namely, Driver, Conductor, Artisan Grade-III and Junior Clerk (for female dependants only). Learned counsel for the petitioner submitted that thereafter, an



order offering appointment to the post of Conductor was issued in favour of the petitioner.

3.4 Learned counsel for the petitioner submitted that immediately after the offer of appointment was made, within a few days, the respondent-Corporation again amended the rule vide order dated 06.08.2013 (Annexure-8), whereby compassionate appointment to the post of Assistant Traffic Inspector was again included among the posts available for such appointment. He, therefore, submitted that the rules had earlier been amended merely with a view to deprive the petitioner of his right to appointment to the post of Assistant Traffic Inspector for a short period.

3.5 Learned counsel for the petitioner submitted that, in any event, as per the settled principle of law, the rules that were in force on the date of death of the deceased employee are required to be applied, and the subsequent rules could not have been applied.

3.6 Learned counsel for the petitioner relied upon the following judgments of the Hon'ble Supreme Court to buttress his submission that the rules applicable on the date of death of the deceased employee are relevant for the purpose of grant of compassionate appointment, and any subsequent rules that came into force thereafter cannot be applied:

(i) ***State of Madhya Pradesh & Ors. vs. Ashish Awasthi*** and connected matter ; 2022 (2) SCC 157.

(ii) ***Canara Bank & Anr. vs. M. Mahesh Kumar*** and connected matters ; 2015 (7) SCC 412.



3.7 Learned counsel for the petitioner, therefore, submitted that the writ petition may be allowed and the respondents may be directed to appoint the petitioner to the post of Assistant Traffic Inspector in accordance with the rules existing on the date of death of the deceased employee.

4. Per contra, learned counsel for the respondent submitted that compassionate appointment is not an alternative mode of recruitment; rather, it is a relief provided to a family whose sole earning member dies during the course of his service.

4.1 Learned counsel for the respondent submitted that a person cannot claim, as a matter of right, appointment to a particular post, as compassionate appointment is not an alternative mode of recruitment.

4.2 Learned counsel for the respondent submitted that the petitioner was offered appointment to the post of Conductor vide order dated 12.07.2013 and, in compliance with the said order, the petitioner joined his duties on the post of Conductor without raising any objection and continued to serve for almost two years. Thereafter, a notice dated 04.05.2015 was sent and the writ petition came to be filed on 29.07.2015.

4.3 Learned counsel for the respondent thus, submitted that the writ petition was filed after a delay of almost two years from the date of acceptance of the appointment to the post of Conductor on compassionate grounds. He submitted that once the petitioner had accepted the post without any objection, he could not, after a lapse of two years, seek appointment to a higher post.

4.4 Learned counsel for the respondent submitted that the father of the petitioner was working on the post of 'Post Deliveryman' in



the respondent-Corporation and that the post of Conductor offered to the petitioner was an equivalent post. He further submitted that, as a matter of right, a person seeking compassionate appointment cannot claim a post higher than that held by the deceased employee.

4.5 Learned counsel for the respondent submitted that once the petitioner had accepted the post without any demur or objection, he could not subsequently claim consideration for appointment to a higher post. He, therefore, submitted that the present writ petition may be dismissed.

5. Heard learned counsel for the parties and perused the material available on record.

6. Before proceeding further, it would be apposite to notice the settled legal position governing compassionate appointment. Compassionate appointment is an exception to the general rule of appointment to public posts. It is intended to provide immediate succor to the family of an employee who dies in harness and leaves the family in financial distress. It is not intended to confer a vested right to public employment, nor does the death of an employee by itself entitle his dependent to appointment to a post of his choice.

6.1 The Hon'ble Supreme Court has repeatedly held that compassionate appointment is a concession and not a right. The object is to enable the family to tide over the sudden financial crisis caused by the death of the earning member. Mere eligibility or possession of a particular educational qualification does not confer a right upon the dependent to seek appointment against a particular or higher post.



6.2 From a perusal of the record, it is reflected that initially an application dated 02.08.2010 (Annexure-1) was submitted by the elder brother of the petitioner, namely, Abhishek Bhatnagar, seeking compassionate appointment to the post of Assistant Engineer (Civil). The said request was declined by the respondent-Corporation on the ground that no such post was available for being offered on compassionate grounds. Thereafter, the petitioner applied for appointment to the post of Assistant Traffic Inspector vide application dated 05.01.2011 (Annexure-3). His application was processed and referred to the higher authorities with a positive remark that a post of Assistant Traffic Inspector was available and that, as the petitioner possessed the requisite qualifications, he could be considered for appointment to the said post. The matter was thereafter referred to the Committee.

6.3 During the intervening period, the guidelines came to be amended vide order dated 30.01.2012 (Annexure-5) and the post of Assistant Traffic Inspector was deleted from the list of posts available for compassionate appointment. The order dated 30.01.2012 is reproduced as under :

“निगम मण्डल के निर्णय संख्या 14/2010 पर परिवहन विभाग, राजस्थान सरकार की अनुमति से आदेश संख्या 590 दिनांक 25.06.2010 के द्वारा राजस्थान राज्य पथ परिवहन निगम के मृत कर्मचारियों के आश्रितों को नियुक्ति देने हेतु अनुकम्पा नियुक्ति विनियम-2010 तुरन्त प्रभाव से लागू किया जाकर उक्त विनियम के बिन्दु संख्या 5 में आश्रित की शैक्षिक अर्हताओं के अनुसार और सेवा की अन्य शर्तें पूर्ति करने पर निगम में पूर्व वेतनमान संख्या 1 से 9 तक के निम्न पदों पर मृतक कर्मचारियों के आश्रितों को नियुक्ति दिये जाने का प्रावधान किया गया था :-

1. सहायक यातायात निरीक्षक
2. संगणक
3. उप भंडार निरीक्षक
4. चालक
5. परिचालक



6. आर्टिजन ग्रेड तृतीय

7. कनिष्ठ लिपिक (केवल महिला आश्रितों को)

राजस्थान राज्य पथ परिवहन निगम के मृतक कर्मचारियों के आश्रितों को नियुक्ति प्रदान करने हेतु उपरोक्तानुसार वर्णित पदों में से पद विलोपित करने के सम्बन्ध में प्रस्ताव संख्या 13/250/2012 निगम मण्डल की मीटिंग दिनांक 18.01.2012 में प्रस्तुत किया गया। उक्त प्रस्ताव पर निगम मण्डल के निर्णय संख्या 13/2012 दिनांक 18.01.2012 में अभिलिखित निर्णयानुसार अनुकम्पा नियुक्ति हेतु निर्धारित पदों में से सहायक यातायात निरीक्षक, संगणक एवं उप भंडार निरीक्षक के पदों को विलोपित करते हुये निगम के मृतक कर्मचारियों के आश्रितों को अनुकम्पा नियुक्ति विनियम 2010 के बिन्दु संख्या 5 में पदों के चयन में आश्रित को उसकी शैक्षिक अर्हताओं के अनुसार एवं सेवा की अन्य शर्तों की पूर्ति करने पर निगम में पूर्व वेतनमान संख्या 1 से 9 तक के निम्न पदों पर ही मृतक कर्मचारियों के आश्रितों को अनुकम्पा नियुक्ति दिये जाने के संशोधन की स्वीकृति प्रदान की जाती है :-

1. चालक
2. परिचालक
3. आर्टिजन ग्रेड तृतीय
4. कनिष्ठ लिपिक (केवल महिला आश्रितों को)''

6.4 Thereafter, the petitioner was offered appointment to the post of Conductor vide order dated 12.07.2013 (Annexure 7). Without challenging any of the actions of the respondent-Corporation, the petitioner accepted the offer of appointment to the post of Conductor and joined the services on 18.07.2013 (Annexure-R/1), whereafter he continued in service. It was only after a lapse of almost two years that a notice for demand of justice dated 04.05.2015 (Annexure-9) came to be sent by the petitioner, claiming appointment to the higher post of Assistant Traffic Inspector. Thereafter, when the said notice was not replied to, the writ petition came to be filed on 29.07.2015, almost two years after his joining on the post of Conductor.

6.5 This Court finds that the petitioner had an opportunity to challenge the action of the respondent immediately upon receiving the offer letter for appointment to the post of Conductor. The





petitioner also had the option to accept the said offer while reserving his right to claim consideration for a higher post. However, nothing of the sort was done by the petitioner. Rather, he accepted the post of Conductor without any demur and joined his duties on 18.07.2013.

6.6 The Hon'ble Supreme Court, in **Director of Town Panchayat & Ors. v. M. Jayabal & Anr. ; 2025 INSC 1423**, held that once a person has accepted a lower post offered to him on compassionate grounds, he cannot subsequently claim appointment to a higher post. The relevant portions of the judgment are reproduced hereinbelow:

"8. It is not in dispute that after the death of the employees in service, the dependent family members were offered appointment to a post for which an application was made by them. They had joined on that post without raising any objection. Meaning thereby, the financial crisis of the family was over as one of the dependents of the deceased was offered appointment on compassionate basis in terms of the policy existing at the time of consideration of their application.

8.1 The next issue which requires consideration by this Court is whether the dependent family member of a deceased employee, after being appointed on a post on compassionate basis, can later on seek indulgence of the employer to appoint him on a higher post.

*9. The law on the issue is well-settled. The issue as to whether a second option can be exercised by the dependent family member of the deceased employee, once option for compassionate appointment has already been exercised and the dependent family member of the deceased joined on the post to which appointment was given, was considered by this Court in **State of Rajasthan v. Umrao Singh**.*



In this case, the deceased was working as Sub-Inspector, CID. On account of his death during service, application for appointment on compassionate basis was made. The dependant was offered appointment on the post of L.D.C. The same was accepted and the incumbent joined on the post. Later, he requested for consideration of his case for appointment on the post of Sub-Inspector, being eligible for the same. This Court negated the claim holding that once right for consideration for appointment on compassionate post was consummated, any further or second consideration for a higher post on the ground of compassion would not arise. The relevant paragraph 8 is extracted below:

"8. Admittedly the respondent's father died in harness while working as Sub-Inspector, CID (Special Branch) on 16-3-1988. The respondent filed an application on 8-4-1988 for his appointment on compassionate ground as Sub-Inspector or LDC according to the availability of vacancy. On a consideration of his plea, he was appointed to the post of LDC by order dated 14- 12-1989. He accepted the appointment as LDC. Therefore, the right to be considered for the appointment on compassionate ground was consummated. No further consideration on compassionate ground would ever arise. Otherwise, it would be a case of "endless compassion". Eligibility to be appointed as Sub-Inspector of Police is one thing, the process of selection is yet another thing. Merely because of the so-called eligibility, the learned Single Judge of the High Court was persuaded to the view that direction be issued under proviso to Rule 5 of Rules which has no application to the facts of this case."

(emphasis supplied)

10. In view of the law laid down by this Court, it stands clarified that the once the right of an applicant to be considered for appointment on compassionate grounds has been consummated, no further consideration is





warranted. Once dependent of a deceased employee is offered employment on compassionate basis, his right stood exercised. Thereafter, no question arises for seeking appointment on a higher post. Otherwise, it would be a case of 'endless compassion'."

6.7 Further, the Hon'ble Supreme Court, in the case of **M. Jayabal (supra)** while dealing with the objective of compassionate appointment held as under:

"7. First and the foremost issue which requires consideration by this Court in the present appeals is whether the compassionate appointment of a family member on account of death of an employee in service, is as a matter of right or not. The issue stands settled in an authoritative judgment of this Court in **Umesh Kumar Nagpal vs. State of Haryana & Ors.** It was opined therein that the core objective behind granting compassionate employment is to enable the family to tide over sudden financial crisis and such favourable treatment that is given to the dependant of the deceased employee is a relief against destitution. It is totally on humanitarian grounds. The relevant paragraphs in are extracted below:

"2..... 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 dependant 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...." (emphasis supplied)

7.1 In the **Premlata's case (supra)**, this court analysed the nature of appointment made on compassionate basis and opined that the same is an exception to the general rule of appointment in the public services. The aspirant has no right to compassionate appointment. It was clarified that the appointment on compassionate ground is a concession and not a right. The relevant paragraphs are extracted below:

"8. While considering the issue involved in the present appeal, the law laid down by this Court on compassionate ground on the death of the deceased employee are required to be referred to and considered. In the recent decision, this Court in *State of Karnataka v. V. Somyashree* [*State of Karnataka v. V. Somyashree*, (2021) 12 SCC 20: 2021 SCC OnLine SC 704], had occasion to consider the principle governing the grant of appointment on compassionate ground. After referring to the decision of this Court in *N.C. Santhosh v. State of Karnataka* [*N.C. Santhosh v. State of Karnataka*, (2020) 7 SCC 617: (2020) 2 SCC (L&S) 861], this Court



has summarized the principle governing the grant of appointment on compassionate ground as under: (V. Somyashree case [State of Karnataka v. V. Somyashree, (2021) 12 SCC 20: 2021 SCC OnLine SC 704], SCC para 10)

"10.1. That the compassionate appointment is an exception to the general rule.

10.2. That no aspirant has a right to compassionate appointment.

10.3. The appointment to any public post in the service of the State has to be made on the basis of the principle in accordance with Articles 14 and 16 of the Constitution of India.

10.4. Appointment on compassionate ground can be made only on fulfilling the norms laid down by the State's policy and/or satisfaction of the eligibility criteria as per the policy.

10.5. The norms prevailing on the date of the consideration of the application should be the basis for consideration of claim for compassionate appointment." 9. As per the law laid down by this Court in a catena of decisions on the appointment on compassionate ground, for all the government vacancies equal opportunity should be provided to all aspirants as mandated under Articles 14 and 16 of the Constitution. However, appointment on compassionate ground offered to a dependant of a deceased employee is an exception to the said norms. The compassionate ground is a concession and not a right.

(emphasis supplied)

10. Thus, as per the law laid down by this Court in the aforesaid decisions, compassionate appointment is an exception to the general rule of appointment in the public services and is in favour of the dependants of a deceased dying-in-harness and leaving his family in penury and without any means of livelihood, and 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 such family a post much less a post held by the deceased."

7.2 Later, similar view was expressed by a Three-Judge Bench of this Court in **Tinku vs. State of Haryana & Ors.** The relevant paragraph is extracted below:

"12. As regards the compassionate appointment being sought to be claimed as a vested right for appointment, suffice it to say that the said right is not a condition of service of an employee who dies in harness, which must be given to the dependent without any kind of scrutiny or undertaking a process of selection. It is an appointment which is given on proper and strict scrutiny of the various parameters as laid down with an intention to help a family out of a sudden pecuniary financial destitution to help it get out of the emerging urgent situation where the sole bread earner has expired, leaving them helpless and maybe penniless. Compassionate appointment is, therefore, provided to bail out a family of the deceased employee facing extreme financial difficulty and but for the employment, the family will not be able to meet the crisis. This shall in any case be subject to the claimant fulfilling the requirements as laid down in the policy, instructions, or rules for such a compassionate appointment."

7.3 Applying the above principles of law, it can be concluded that the dependent of a deceased employee, though eligible, is not entitled to appointment at any position on compassionate basis as a matter of right. Such appointments, made on purely humanitarian grounds, have to be viewed as exceptions to the general rules of appointment. It is important to note that mere eligibility of the applicant cannot be reason enough to materialise his/her claim for appointment on a higher post. Once a family member of the deceased employee is offered appointment on compassionate basis, the





purpose stands well served. Therefore, the contention of the respondents that they are entitled to be reconsidered for further appointment on a higher post is not maintainable."

7. In view of the aforesaid principles laid down by the Hon'ble Supreme Court, the case of the petitioner is squarely covered, as the petitioner had accepted the offer of appointment to the post of Conductor and, thereafter, filed the present writ petition after almost two years, seeking appointment to a higher post. This Court finds no reason to grant any relief to the petitioner as claimed in the writ petition, particularly in view of the law laid down by the Hon'ble Supreme Court in **M. Jayabal** (supra).

8. So far as the judgments relied upon by the petitioner are concerned, it cannot be disputed that the relevant date for consideration of a claim for compassionate appointment depends upon the applicable rules and the law governing such appointment on date of death. However, in the present case, once the petitioner accepted the lower post offered to him without any demur and continued to work thereon for almost two years, he could not subsequently claim appointment to a higher post.

9. Accordingly, the present writ petition is **dismissed**.

10. All pending applications stand disposed of.

(BIPIN GUPTA),J

2/Abdul Raoof Khan