2025:DHC:5524

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Decided on: 10.07.2025***

\+ W.P.(C) 4566/2024

ABHISHEK AND ANR. .....Petitioners

Through: Mr. Rahul Rohtagi, Advocate.

versus

UNION OF INDIA AND OTHERS .....Respondents

Through: Mr. Abhishek Saket, SPCG, Mr. Manish Madhukar, Mr. Abhigyan, Advocates for UOI.
Mr. Chandan Kumar and Mr. Vikram Sharma, Advocates for R-2.

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

PRATEEK JALAN, J. (ORAL)

1. The petitioners are the son and wife of Late Sh. Ram Kishan, who was an employee of respondent No.2 - Centre for Railway Information Systems ["CRIS"]. Sh. Ram Kishan died on 03.05.2020, while he was still in service. By way of the present writ petition, the petitioners seek a direction upon CRIS to appoint petitioner No. 1 on compassionate grounds, in place of his deceased father, as requested through a representation made by petitioner No. 2 on 18.08.2020.

2. I have heard Mr. Rahul Rohtagi, learned counsel for the petitioners, and Mr. Chandan Kumar, learned counsel for CRIS.

3. Two recent judgments of the Supreme Court have summarised the principles which must inform the consideration of applications for

compassionate appointment:

(a) The following extracts of the judgment of a three-judge Bench, in *Tinku v. State of Haryana & Ors.*[1], are relevant for the present case:

> *"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.***
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> ***13. It must be clearly stated here that in a case where there is no policy, instruction, or rule providing for an appointment on compassionate grounds, such an appointment cannot be granted.****"*[2]

(b) In *Canara Bank v. Ajithkumar G.K.*[3], the Court has distilled its earlier precedents into 26 propositions, which include the following:

> *a) Appointment on compassionate ground, which is offered on humanitarian grounds, is an exception to the rule of equality in the matter of public employment.*[4]
> ***b) Compassionate appointment cannot be made in the absence of rules or instructions.***[5]
> *xxxx xxxx xxxx*
> *e) Since rules relating to compassionate appointment permit a sidedoor entry, the same have to be given strict interpretation.*[6]
> *f) Compassionate appointment is a concession and not a right and the*

[1] 2024 SCC OnLine SC 3292.
[2] Emphasis supplied.
[3] 2025 SCC OnLine SC 290.
[4] General Manager, State Bank of India v. Anju Jain, (2008) 8 SCC 475.
[5] Haryana State Electricity Board v. Krishna Devi, (2002) 10 SCC 246.
[6] Uttaranchal Jal Sansthan v. Laxmi Devi, (2009) 11 SCC 453.

criteria laid down in the Rules must be satisfied by all aspirants.[7]
g) None can claim compassionate appointment by way of inheritance.[8]
h) Appointment based solely on descent is inimical to our constitutional scheme, and being an exception, the scheme has to be strictly construed and confined only to the purpose it seeks to achieve.[9]
i) None can claim compassionate appointment, on the occurrence of death/medical incapacitation of the concerned employee (the sole bread earner of the family), as if it were a vested right, and any appointment without considering the financial condition of the family of the deceased is legally impermissible.[10]
xxxx xxxx xxxx
m) The idea of compassionate appointment is not to provide for endless compassion.[11]
n) Satisfaction that the family members have been facing financial distress and that an appointment on compassionate ground may assist them to tide over such distress is not enough; ***the dependent must fulfil the eligibility criteria for such appointment****.*[12]
xxxx xxxx xxxx
x) Courts cannot confer benediction impelled by sympathetic consideration.[13]
y) Courts cannot allow compassionate appointment dehors the statutory regulations/instructions. *Hardship of the candidate does not entitle him to appointment dehors such regulations/instructions.*[14]
z) An employer cannot be compelled to make an appointment on compassionate ground contrary to its policy.[15]
xxxx xxxx xxxx"[16]

4. It is evident from the above judgments that grant of compassionate appointment is an exception to the general principle that all public employment is subject to merit-based, open, and transparent competition. If an exception is carved out for the family members of employees who die in harness, such appointments are conditional upon existence of a policy

[7] SAIL v. Madhusudan Das, (2008) 15 SCC 560.
[8] State of Chattisgarh v. Dhirjo Kumar Sengar, (2009) 13 SCC 600.
[9] Bhawani Prasad Sonkar v. Union of India, (2011) 4 SCC 209.
[10] Union of India v. Amrita Sinha, (2021) 20 SCC 695.
[11] I.G. (Karmik) v. Prahalad Mani Tripathi, (2007) 6 SCC 162.
[12] State of Gujarat v. Arvindkumar T. Tiwari, (2012) 9 SCC 545.
[13] Life Insurance Corporation of India v. Asha Ramchandra Ambekar, (1994) 2 SCC 718.
[14] SBI v. Jaspal Kaur, (2007) 9 SCC 571.
[15] Kendriya Vidyalaya Sangathan v. Dharmendra Sharma, (2007) 8 SCC 148.
[16] Emphasis supplied.

for the purpose, and must be made strictly in accordance therewith.

5. In the present case, the clear averment in the counter affidavit dated 24.10.2024 filed by CRIS, is that CRIS has no policy for compassionate appointment. This position is uncontroverted.

6. The matter would have rested there, but for a specific contention in the writ petition, that family members of two other deceased employees of CRIS, namely, Late Sh. Gaurav Bhatt and Late Sh. Amit Agrawal, were, in fact, granted compassionate appointments.

7. As far as this aspect is concerned, the position taken in the counter affidavit was that a one-time authorisation was granted to the Managing Director of CRIS to make compassionate appointments to dependent family members of employees who had died due to Covid-19. It was stated that Sh. Ram Kishan having died of causes other than Covid-19, the benefit of this authorisation could not be extended to his family.

8. By order dated 07.04.2025, the petitioners were given liberty to place on record further medical documents of Sh. Ram Kishan, and respondent No. 2 was directed to file the records relevant to the aforesaid authorisation.

9. The petitioners have not placed any further documents on record, and it is now stated to be the accepted factual position that Sh. Ram Kishan did not suffer from Covid-19. In the representation dated 18.08.2020, submitted by petitioner No. 2 to CRIS, it was categorically stated that the deceased was Covid negative.

10. CRIS has filed an additional affidavit dated 29.04.2025, in which the record of the aforesaid decision has been placed on record. The record reveals that a proposal was made for approval of the Executive Committee,

with regard to "*Covid death cases – appointment on CG*[17] *basis as an exception*". The background of the said decision is stated, as follows:

> *"**Background:***
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> *The COVID-19 pandemic had a severe global differential impacts within and across countries. CRIS was also impacted by the death of three promising engineers and one Administrative staff during the scare. Although CRIS administration and staff provided much needed immediate support to the aggrieved families within rules but in order to reduce the hardship caused to their families due to bread earning member, Appointment on compassionate grounds for dependents of CRIS regular employees who died in Harness during Covid would be much needed relief."*

11. While observing that CRIS Bye-laws do not contain any provision of appointment on compassionate grounds, it was noted that four employees (including Sh. Ram Kishan) had expired during Covid-19. The minutes of the Executive Committee meeting held on 27.10.2023 read as follows:

> *"**Agenda item - 10: Covid death case- appointment on Compassionate ground basis as an exception***
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> *3.9 Agenda 10 -One time exemption for Compassionate ground appointments for CRIS employees who died in COVId-19. MD/CRIS suggested that instead of having a regular policy a onetime exemption to be given for such cases. This was agreed to and it was advised to send a formal proposal for approval of Chairman, Governing Council (MR)."*

12. The affidavit states that the proposal was thereafter submitted to the Minister of Railways (being the Chairman, Governing Council of CRIS), and was approved on 09.01.2024. The original record has been produced before the Court.

13. Mr. Kumar submits that, in these circumstances, authorisation granted to the Managing Director was limited to the grant of compassionate

[17] Compassionate ground.

appointment to dependents of employees who died in harness due to Covid-19, and the petitioners' case does not fall within the said category.

14. Mr. Rohtagi, however, submits that the distinction drawn between dependents of employees who died due to Covid-19, on the one hand, and employees who died of other causes, on the other hand, is impermissible. The families of both employees are in similar positions, and similar benefits ought to be granted to each of them.

15. I am unable to accept this contention. While discrimination and unequal treatment of equals, are certainly anathema to Article 14 of the Constitution, classification on the basis of intelligible differentia, bearing rational nexus to the objective is permissible. In *State of Uttarakhand v. Sudhir Budakoti*[18], the Supreme Court has described the principles as follows:

> *"14.* ***A mere differential treatment on its own cannot be termed as an "anathema to Article 14 of the Constitution". When there is a reasonable basis for a classification adopted by taking note of the exigencies and diverse situations, the Court is not expected to insist on absolute equality by taking a rigid and pedantic view as against a pragmatic one.***
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> *15. Such a discrimination would not be termed as arbitrary as the object of the classification itself is meant for providing benefits to an identified group of persons who form a class of their own. When the differentiation is clearly distinguishable with adequate demarcation duly identified, the object of Article 14 gets satisfied.* ***Social, revenue and economic considerations are certainly permissible parameters in classifying a particular group.*** *Thus, a valid classification is nothing but a valid discrimination. That being the position, there can never be an injury to the concept of equality enshrined under the Constitution, not being an inflexible doctrine.*
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> *16.* ***A larger latitude in dealing with a challenge to the classification is mandated on the part of the Court when introduced either by the Legislature or the Executive as the case may be.*** *There is no way, courts*

[18] (2022) 13 SCC 256.

could act like appellate authorities especially when a classification is introduced by way of a policy decision clearly identifying the group of beneficiaries by analysing the relevant materials.

17. The question as to whether a classification is reasonable or not is to be answered on the touchstone of a reasonable, common man's approach, keeping in mind the avowed object behind it. If the right to equality is to be termed as a genus, a right to non-discrimination becomes a specie. When two identified groups are not equal, certainly they cannot be treated as a homogeneous group. A reasonable classification thus certainly would not injure the equality enshrined under Article 14 when there exists an intelligible differentia between two groups having a rational relation to the object. Therefore, an interference would only be called for on the Court being convinced that the classification causes inequality among similarly placed persons. The role of the court being restrictive, generally, the task is best left to the authorities concerned. When a classification is made on the recommendation made by a body of experts constituted for the purpose, Courts will have to be more wary of entering into the said arena as its interference would amount to substituting its views, a process which is best avoided.

18. As long as the classification does not smack of inherent arbitrariness and conforms to justice and fair play, there may not be any reason to interfere with it. It is the wisdom of the other Wings which is required to be respected except when a classification is bordering on arbitrariness, artificial difference and itself being discriminatory. A decision made sans the aforesaid situation cannot be tested with either a suspicious or a microscopic eye. Good faith and intention are to be presumed unless the contrary exists. One has to keep in mind that the role of the Court is on the illegality involved as against the governance."[19]

16. In *Rajasthan SRTC v. Danish Khan*[20], the Supreme Court summarised the legal position thus, in the context of a compassionate appointment regulation:

> *"8. The dependants of a deceased employee who claim compensation from the Corporation under the Act and compassionate appointment from the appellant Corporation form a separate class.* ***It is well settled that though Article 14 forbids class legislation, it does not forbid reasonable classification for the purposes of legislation. When any impugned rule or statutory provision is assailed on the ground that it contravenes Article 14,***

[19] Emphasis supplied.
[20] (2019) 9 SCC 558.

> ***its validity can be sustained if two tests are satisfied. The first test is that the classification on which it is founded must be based on an intelligible differentia which distinguishes persons or things grouped together from others left out of the group; and the second test is that the differentia in question must have a reasonable relation to the object sought to be achieved by the rule or statutory provision in question.***[21]*. "*[22]

17. In the present case, CRIS does not have a general policy for the grant of compassionate appointments. It took a decision to make an exception *only* for dependents of employees who died due to Covid-19 infection. A classification made in accordance with the social and economic priorities of a public authority, is generally permissible, unless found to be arbitrary or unreasonable.

18. On the touchstone of the principles of classification noted above, I do not find the differentiation to be either unintelligible, or divorced from the policy objective. The egregious effects of the Covid-19 pandemic are all too well known. Public authorities responded to the exceptional circumstances of the pandemic by way of specially tailored ameliorative measures. The step taken by CRIS was, in my view, well within its powers to address the particular situation thrown up by the pandemic. I do not discern any unreasonableness or arbitrariness in providing compassionate appointments to Covid-affected families, without extending it to dependents of all employees dying in harness, regardless of the cause of death. An extension to other employees would doubtless have financial implications. The differentiation was, therefore, on intelligible criteria and bore an obvious nexus with the policy objective of providing relief to those who suffered due to the pandemic.

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[21] State of Mysore v. P. Narasinga Rao, AIR 1968 SC 349.
[22] Emphasis supplied.

19. For the aforesaid reasons, in the absence of any general mandate that every public sector organisation *must* have a policy of compassionate appointment, I am unable to come to the aid of the petitioners in this writ petition.

20. The petition is, therefore, dismissed.

PRATEEK JALAN, J

JULY 10, 2025
SS/Jishnu