



NON-REPORTABLE

**IN THE SUPREME COURT OF INDIA
(CIVIL APPELLATE JURISDICTION)**

CIVIL APPEAL NO. OF 2026
(Arising out of SLP (C) No. 7244 of 2026)

RASPELLI BHAGYA KISHAIYA & ORS. ... APPELLANT(S)

VERSUS

**GENERAL MANAGER, WESTERN
COALFIELDS LIMITED & ORS. ... RESPONDENT(S)**

J U D G M E N T

VIPUL M. PANCHOLI, J.

1. Leave granted.
2. This is an appeal assailing the final judgment and order dated 26.11.2025 passed by the High Court of Judicature at Bombay, Nagpur Bench, in Writ Petition No. 2364 of 2024, whereby the writ petition preferred by the appellants challenging the rejection of compassionate appointment of appellant No. 2 was dismissed, on the ground that appellant No. 2 had crossed the age of 35 years

prescribed under Clause 9.3.4 of the National Coal Wage Agreement - VI (for brevity “NCWA”) by the date his claim came to be considered.

FACTUAL BACKGROUND

3. The brief facts of the case are that appellant No. 2 is the son of Late Ruspelli Kistaiya, who served as a Dozer Operator with the respondent–Western Coalfields Limited for nearly 36 years and died in harness on 17.12.2020. On the date of death of the employee, appellant No. 2 was aged 34 years, 10 months and 12 days, his date of birth being 05.02.1986.

4. On 31.12.2020, the respondent–Western Coalfields Limited issued the Standard Operating Procedure (for brevity “SOP”) / Circular Reference No. 1416/2020-21, providing procedure for on-boarding of the dependents of ex-employees under compassionate grounds.

5. Appellant No. 1 (widow) approached the authorities on 03.01.2021 regarding the payment/dues and other service benefits to be received after her husband’s death, on which date

appellant No. 2 was aged 34 years, 10 months and 29 days. Appellant No. 3 is the younger son of the deceased employee and has furnished a No-Objection Certificate in favour of appellant No. 2. On 04.01.2021, respondent No. 4 issued a communication, being Reference No. 1211/2020-21, directing appellant No. 2 to undergo police verification for compassionate appointment.

6. Appellant No. 2 completed 35 years of age on 05.02.2021. The police verification and document verification were completed on 11.02.2021 and 25.02.2021, respectively.

7. Thereafter, appellant No. 2 submitted the prescribed pro forma application on 28.05.2021. The respondent-authorities acknowledged the receipt of the submitted formal application on 14.06.2021 as the relevant date.

8. Ultimately on 03.02.2023, the respondent-authorities rejected the claim of appellant No. 2 on the ground that appellant No. 2 had crossed the age of 35 years prescribed under Clause 9.3.4 of the NCWA. The rejection order was communicated to appellant No. 1 on 20.05.2023.

9. Aggrieved thereby, appellant No. 1 filed Writ Petition No. 2364 of 2024 before the High Court.

10. *Vide* the impugned judgment dated 26.11.2025, the High Court dismissed the writ petition, affirming the rejection holding that age had to be reckoned on the date on which the claim of appellant No. 2 was considered, on which date appellant No. 2 had already crossed the age of 35 years prescribed under Clause 9.3.4 of the NCWA.

11. Aggrieved by the impugned final judgment and order of the High Court, the appellants have filed the present appeal.

SUBMISSIONS ON BEHALF OF APPELLANTS

12. Ms. Anitha Shenoy, learned senior counsel appearing for the appellants, made the following submissions:

12.1. The impugned judgment proceeds on an erroneous premise by determining the age eligibility of appellant No. 2 with reference to the date of consideration of the claim, whereas Clause 9.3.4 of the NCWA merely prescribes that the dependent should not be more than 35 years of age and does not specify the relevant cut-

off date. It was contended that, in the absence of any express stipulation, the age has to be reckoned either from the date of death of the employee or, at the latest, from the date of initiation of the compassionate appointment process. On both these dates, namely 17.12.2020 and 04.01.2021, appellant No. 2 was admittedly within the prescribed age limit and, therefore, the subsequent rejection on the ground that he had crossed the age limit by the time the respondent-authorities considered the application is legally unsustainable.

12.2. Learned senior counsel further submitted that the High Court ignored the material contemporaneous document on record, namely the communication dated 04.01.2021 issued by respondent No. 4 directing appellant No. 2 to undergo police verification. The issuance of such a communication establishes that the process for compassionate appointment had already commenced on 04.01.2021 and could not have preceded the existence of a valid claim. The documents furnished on 14.06.2021 merely completed the procedural formalities and did not constitute the initiation of the claim. By overlooking this

contemporaneous evidence and accepting the contention of the respondent-authorities that the application was first made only on 14.06.2021, the High Court recorded a finding contrary to the record.

12.3. It was further argued that the respondent-authorities cannot be permitted to derive advantage from their own administrative delay. Although the process commenced on 04.01.2021, the respondent-authorities took nearly 2 years to reject the claim on 03.02.2023. The delay was compounded by the unprecedented disruption caused by the second wave of the COVID-19 pandemic during March to June 2021, when normal administrative functioning stood severely affected. Appellant No. 2 could not be penalised for circumstances beyond his control and any interpretation that makes eligibility dependent upon the pace of administrative processing would be arbitrary and violative of Article 14 of the Constitution of India.

12.4. Reliance was placed on the decision of this Court in ***Malaya Nanda Sethy v. State of Orissa & Ors.***, (2024) 15 SCC 766, to contend that the authorities cannot be allowed to benefit from

their own delay and that applications for compassionate appointment ought to be decided expeditiously, preferably within six months. It was submitted that the High Court's finding that there was "no delay" is factually incorrect, as the record demonstrates that the respondent-authorities took more than 2 years to reject the claim of appellant No. 2.

12.5. Learned senior counsel further submitted that the issuance of the police verification letter created a legitimate expectation that the claim of appellant No. 2 had been accepted for processing and that his eligibility stood recognised and acting on such representation, appellant No. 2 completed all the required formalities. Thereafter, The respondent-authorities cannot resile from their own conduct and contend that the claim had not commenced until 14.06.2021. In this regard, reliance was placed upon ***Food Corporation of India v. Kamdhenu Cattle Feed Industries***, (1993) 1 SCC 71.

12.6. Reliance was also placed on the recent decision of this Court in ***Canara Bank v. Ajithkumar G.K.***, 2025 INSC 184, wherein it was observed that a dependent who otherwise satisfies the

requirements of the compassionate appointment scheme should not be denied consideration solely on the ground of age, particularly where the delay is attributable to the employer.

12.7. Finally, it was contended that compassionate appointment is a beneficial welfare measure intended to provide immediate financial succour to the family of a deceased employee and must receive a liberal and purposive construction. The High Court failed to consider the constitutional challenge based on arbitrariness under Article 14, ignored binding precedents and material evidence and disposed of the writ petition without examining the substantial questions of law involved. The impugned judgment, therefore, warrants interference by this Court.

SUBMISSIONS ON BEHALF OF RESPONDENTS

13. *Per contra*, Mr. Ashwani Bhardwaj, learned counsel appearing for the respondent-authorities, submitted as under:

13.1. The present appeal is wholly devoid of merit and does not warrant interference under Article 136 of the Constitution of India, as it merely seeks re-appreciation of findings of fact

concurrently considered by the respondent-authorities and affirmed by the High Court.

13.2. Learned counsel submitted that compassionate appointment is not a vested or enforceable right but only a concession governed entirely by the NCWA. The scheme constitutes a complete code prescribing the eligibility conditions, including the upper age limit of 35 years, which must be strictly complied with and cannot be relaxed on equitable or sympathetic considerations in the absence of any enabling provision.

13.3. It was further contended that the entire case of the appellants rests upon an artificial concept of “initiation of the compassionate appointment process”, which finds no place in the governing scheme. According to the respondent-authorities, the communication dated 04.01.2021 directing police verification was merely a preliminary administrative step undertaken for background verification and did not amount to initiation or consideration of the claim. The claim became ripe for consideration only upon submission of the prescribed application together with all requisite documents, which was completed and

acknowledged on 14.06.2021. It is only thereafter that the competent authority could examine the eligibility of appellant No. 2 under the scheme.

13.4. Learned counsel submitted that appellant No. 2 had admittedly crossed the prescribed upper age limit by the time the application became complete and was taken up for consideration. The respondent-authorities were, therefore, legally bound to reject the claim, as they possessed no authority to relax or waive the mandatory eligibility criteria prescribed under the NCWA. Any direction to grant compassionate appointment contrary to the scheme would amount to rewriting the policy and compelling the employer to act contrary to its own regulations.

13.5. It was argued that the appellants have wrongly attributed administrative delay to the respondent-authorities without placing any material to establish deliberate or mala fide inaction. The process necessarily involved scrutiny of dependency, verification of documents and compliance with the policy requirements. Even assuming there was some delay in processing,

equitable considerations cannot override the express provisions of the scheme, nor can delay confer eligibility where none exists.

13.6. Learned counsel further submitted that the plea founded on Article 14 of the Constitution is misconceived, as the scheme has been uniformly applied to all similarly situated candidates and no case of discrimination or differential treatment has been established. Likewise, the doctrine of legitimate expectation has no application, since no representation or assurance was ever given that appellant No. 2 would be considered on the basis of any preliminary administrative step such as police verification.

13.7. It was also contended that acceptance of the interpretation of the appellants would introduce uncertainty and administrative chaos, as different applicants could rely upon different preliminary stages to contend that their cases had been “initiated”, thereby rendering the eligibility criteria unworkable and defeating the uniform application of the scheme. The relevant date, according to the respondent-authorities, is necessarily the date on which the application is complete in all respects and is taken up for consideration by the competent authority.

13.8. Finally, learned counsel submitted that the High Court correctly appreciated both the factual matrix and the governing legal principles in holding that appellant No. 2 was overage on the date of consideration of the application and that no arbitrariness or illegality could be attributed to the decision of the respondent-authorities. The impugned judgment, therefore, calls for no interference under Article 136 of the Constitution and the present appeal deserves to be dismissed.

ANALYSIS AND FINDINGS

14. We have carefully considered the rival submissions and have perused the material placed on record.

15. The issue that arises for consideration is whether, in the absence of any express stipulation in Clause 9.3.4 of the NCWA, the age eligibility for compassionate appointment is to be determined with reference to the date of consideration of the application, as held by the High Court and contended by the respondent-authorities, or with reference to the date on which the right to seek compassionate appointment accrued and the process stood initiated, as urged by the appellants.

16. At the outset, it is well settled that compassionate appointment cannot be claimed as a matter of right, but at the same time, it is a welfare measure intended to provide immediate financial assistance to the family of a deceased employee. Therefore, the scheme should be interpreted in a fair and reasonable manner so that its object is achieved and not defeated.

17. In the present case, it is important to note that certain facts are undisputed. Clause 9.3.4 of the NCWA provides that a dependent seeking compassionate appointment should not be more than 35 years of age. The deceased employee died on 17.12.2020. On that date, appellant No. 2 was below 35 years of age. On 03.01.2021, appellant No. 1 (widow) approached the authorities regarding the post-death service benefits and on 04.01.2021, the respondent-authorities themselves directed appellant No. 2 to undergo police verification. Appellant No. 2 completed 35 years of age on 05.02.2021 and police verification and document verification were completed on 11.02.2021 and 25.02.2021 respectively. Thereafter, appellant No. 2 submitted the prescribed pro forma application on 28.05.2021 and the

respondent-authorities acknowledged the receipt of the formal application on 14.06.2021 as the relevant date. However, the claim was rejected only on 03.02.2023 on the ground that appellant No. 2 had crossed the age of 35 years.

18. At this stage, it is also pertinent to note that the police verification and document verification of appellant No. 2 had already been completed on 11.02.2021 and 25.02.2021, respectively. However, immediately thereafter, the second wave of the COVID-19 pandemic hit the country from March 2021 until the end of June 2021, causing unprecedented disruption to normal administrative functioning. It is not in dispute that appellant No. 2 submitted the prescribed pro forma application on 28.05.2021, which was acknowledged by the respondent-authorities on 14.06.2021. In these circumstances, any delay during this period cannot fairly be attributed to appellant No. 2 and he cannot be made to suffer on account of circumstances beyond his control.

19. We are unable to accept the submission of the respondent-authorities that the communication dated 04.01.2021 was merely

a routine administrative exercise and has no bearing on the initiation of the compassionate appointment process. The SOP issued by the respondent-authorities themselves provides that antecedent and police verification shall be obtained before processing a claim for compassionate employment. Therefore, police verification is an important part of the process and cannot take place unless a claim has already been initiated. Hence, if no claim had been made, there was no reason for the respondent-authorities to direct appellant No. 2 to undergo police verification. Thus, their own conduct clearly shows that the process had already begun on 04.01.2021.

20. We also find no merit in the contention of the respondent-authorities that the claim became complete for consideration only upon submission of the prescribed application form and supporting documents. Admittedly, the formal application submitted by appellant No. 2 was received by the respondent-authorities on 14.06.2021 and according to the respondent-authorities, appellant No. 2 was over the prescribed age limit on that date. However, the interpretation advanced by the

respondent-authorities cannot be accepted, because a dependent who was fully eligible on the date of death and who submitted the application within a reasonable period of 6 months cannot be considered ineligible merely because the requisite procedural formalities took time, as such an interpretation would defeat the very purpose of the scheme.

21. At this stage, it is important to note the recent decision of this Court in the case of ***Malaya Nanda Sethy v. State of Orissa & Ors.*** (*supra*), wherein this Court held that an otherwise eligible applicant cannot be made to suffer on account of delay/inaction attributable to the employer and further directed that applications seeking compassionate appointment should be considered expeditiously, preferably within a period of six months from the date of submission of the completed application. The relevant paragraphs read as under:

“12. Thus, from the aforesaid, it can be seen that there was no fault and/or delay and/or negligence on the part of the appellant at all. He was fulfilling all the conditions for appointment on compassionate grounds under the 1990 Rules. For no reason, his application was kept pending and/or no order was passed on one ground or the other. Therefore, when there was no fault and/or delay on the part of the appellant and all throughout there was a delay on the part of the department/authorities, the appellant should not be made to suffer. Not appointing the appellant under the 1990 Rules would be giving a

premium to the delay and/or inaction on the part of the department/authorities. There was an absolute callousness on the part of the department/authorities. The facts are conspicuous and manifest the grave delay in entertaining the application submitted by the appellant in seeking employment which is indisputably attributable to the department/authorities. In fact, the appellant has been deprived of seeking compassionate appointment, which he was otherwise entitled to under the 1990 Rules. The appellant has become a victim of the delay and/or inaction on the part of the department/authorities which may be deliberate or for reasons best known to the authorities concerned. Therefore, in the peculiar facts and circumstances of the case, keeping the larger question open and aside, as observed hereinabove, we are of the opinion that the appellant herein shall not be denied appointment under the 1990 Rules.

...

14. *Before parting with the present order, we are constrained to observe that considering the object and purpose of appointment on compassionate grounds i.e. a family of a deceased employee may be placed in a position of financial hardship upon the untimely death of the employee while in service and the basis or policy is immediacy in rendering of financial assistance to the family of the deceased consequent upon his untimely death, the authorities must consider and decide such applications for appointment on compassionate grounds as per the policy prevalent, at the earliest, but not beyond a period of six months from the date of submission of such completed applications.*

15. *We are constrained to direct as above as we have found that in several cases, applications for appointment on compassionate grounds are not attended in time and are kept pending for years together. As a result, the applicants in several cases have to approach the High Courts concerned seeking a writ of mandamus for the consideration of their applications. Even after such a direction is issued, frivolous or vexatious reasons are given for rejecting the applications. Once again, the applicants have to challenge the order of rejection before the High Court which leads to pendency of litigation and passage of time, leaving the family of the employee who died in harness in the lurch and in financial difficulty. Further, for reasons best known to the authorities and on irrelevant considerations, applications made for compassionate appointment are rejected. After several years or are not considered at all as in the instant case.*

16. *If the object and purpose of appointment on compassionate grounds as envisaged under the relevant policies or the rules have to*

be achieved then it is just and necessary that such applications are considered well in time and not in a tardy way. We have come across cases where for nearly two decades the controversy regarding the application made for compassionate appointment is not resolved. This consequently leads to the frustration of the very policy of granting compassionate appointment on the death of the employee while in service. We have, therefore, directed that such applications must be considered at an earliest point of time. The consideration must be fair, reasonable and based on relevant consideration. The application cannot be rejected on the basis of frivolous and for reasons extraneous to the facts of the case. Then and then only the object and purpose of appointment on compassionate grounds can be achieved.”

22. Keeping in view the aforesaid decision rendered by this Court and examining the facts of the present case, we are of the view that appellant No. 2 cannot be denied compassionate appointment merely because the respondent-authorities took an unduly long time to process and decide his claim. As noted hereinabove, the process for compassionate appointment had already commenced on 04.01.2021 when appellant No. 2 was admittedly within the prescribed age limit. Even if the date of receipt of the formal application, i.e. 14.06.2021, is taken as the relevant date, the respondent-authorities rejected the claim only on 03.02.2023, which is after an inordinate delay of about 19 months. The respondent-authorities cannot be permitted to defeat the claim of an otherwise eligible dependent by taking advantage of their own delay in processing the application.

23. We are also of the considered opinion that the High Court committed an error in accepting the stand of the respondent-authorities that the claim for compassionate appointment came into existence only upon submission of the formal application on 14.06.2021 and it also failed to consider the communication dated 04.01.2021 issued by the respondent-authorities directing appellant No. 2 to undergo police verification, which clearly demonstrates that the compassionate appointment process had already commenced when appellant No. 2 was still within the prescribed age limit. The High Court further proceeded on the premise that there was no delay on the part of the respondent-authorities. However, even assuming that 14.06.2021 was the relevant date, the claim was rejected only on 03.02.2023, about 19 months thereafter. Thus, the finding of the High Court that the claim of appellant No. 2 was considered within a period of 4 to 5 months is contrary to the facts and material on record and, therefore, cannot be sustained.

24. In these circumstances, we are of the considered opinion that the respondent-authorities were not justified in rejecting the claim

of appellant No. 2 on the ground that he had crossed the age limit by the time the application was considered. The High Court also erred in affirming that decision. The impugned judgment, therefore, cannot be sustained and is liable to be set aside.

CONCLUSION

25. For the aforesaid reasons, the appeal is allowed and the judgment dated 26.11.2025 passed by the High Court of Judicature at Bombay, Nagpur Bench, in Writ Petition No. 2364 of 2024 is set aside.

26. The respondent-authorities are directed to reconsider the claim of appellant No. 2 for compassionate appointment by treating him as eligible in age and by examining only the remaining conditions under the applicable scheme. Such exercise shall be completed within 8 weeks from the date of receipt of a copy of this judgment. If appellant No. 2 is otherwise found eligible, appointment shall be offered within 4 weeks thereafter.

27. Before parting, we clarify that this judgment is rendered in the peculiar facts and circumstances of the present case.

28. Accordingly, the appeal stands disposed of, along with pending applications, if any.

.....**J.**
ARAVIND KUMAR

.....**J.**
VIPUL M. PANCHOLI

NEW DELHI
AUGUST 12, 2026