

AFR

Neutral Citation No. - 2025:AHC:173683

**Court No. - 50**

**Case :-** WRIT - A No. - 5353 of 2025

**Petitioner :-** Prinsu Singh

**Respondent :-** Union Of India And 2 Others

**Counsel for Petitioner :-** Sankalp Narain, Srivats Narain

**Counsel for Respondent :-** A.S.G.I., Satish Chaturvedi, Sudarshan Singh

**Hon'ble Ajay Bhanot, J.**

## **I. Introduction**

1. The petitioner made a claim for appointment on compassionate grounds on 24.01.2020. The petitioner has sought for the following relief:

"(i) To issue a writ, order or direction in the nature of mandamus commanding the respondents to forthwith decide the applications preferred by the petitioner seeking his compassionate appointment, dated 24.01.2020 as well as 04.04.2025 (Annexure no. 6 and 8 to this writ petition).

(ii) To issue a writ, order or direction in the nature of mandamus commanding the respondent authorities to grant him compassionate appointment as expeditiously as possible."

## **II. Facts established from the record**

2. The father of the petitioner was dismissed from service by order dated 10.05.2006. The father of the petitioner instituted proceedings before the labour court against the order of dismissal. The labour court by award dated 16.10.2015 set aside the dismissal of the petitioner's father from service and

directed reinstatement with full backwages and all consequential benefits attached to the post. The award of the labour court was assailed before this Court by instituting Writ C No. 53989 of 2016 (D.G.M. (Appellate Authority) State Bank of India Vs. Central Govt. Industrial Tribunal Cum Labour Court). The writ petition is still pending. Steps to expedite the hearing of the said writ petition are not disclosed in the writ petition. The following order was passed in the aforesaid writ petition:

"Till the next date of listing, effect and operation of the impugned award dated 16 October 2015, published on 28 April 2016, shall remain stayed provided the respondent workman is reinstated within one month from date and 25% of his back wages is released within three months thereafter.

It is clarified that the sum released in favour of the workman and the balance back wages shall be subject to final decision of the writ petition."

3. The father of the petitioner died in harness on 08.12.2019. An application for grant of appointment on compassionate grounds was preferred on behalf of the petitioner by his mother on 24.01.2020. Subsequently another application was made on 04.04.2025 for the same purpose.

4. The petitioner claims that he had made several representations over the years for compassionate appointment.

### **III. Appointment on compassionate grounds : Rationale & Purpose**

5. The process of appointments on compassionate grounds is a departure and an exception to the public process of appointments as stipulated in the Constitution. Compassionate appointments reflect the commitment of the State as a model employer to the welfare of its employees.

6. The sole purpose of compassionate ground appointments is to provide prompt financial succour to a family of the deceased government employee which faces sudden financial destitution as a result of the death of the employee in harness. The appointments on compassionate grounds have passed the test of constitutionality by a slender margin and on the above grounds alone.

7. Appointments on compassionate grounds give a sheltered entry to the dependents of a deceased employee into government service without the rigors of an open selection procedure. The competitive merit of candidates is of no relevance since the appointments are made without adopting the public selection procedure. Norms of recruitment are completely relaxed for appointment on compassionate grounds. However the law requires the applicants to possess minimum qualifications for the posts.

8. Considering the aforesaid limitations of compassionate ground appointments, it has been held by good authority that there is no vested right to an appointment on compassionate grounds. Further, the right to compassionate ground appointment is derived only from specific provisions in this regard and the same have to be strictly adhered to. An unduly liberal view while interpreting the aforesaid rules may make the appointments vulnerable to reproach by the equality clause of the Constitution.

9. Appointments on compassionate grounds made in violation of the Rules governing such appointments or without examination of relevant factors as per law, or in the teeth of holdings of Constitutional Courts in point will shear the cloak of legality from these appointments and will reduce the said appointments to a class of hereditary appointments. Under the constitutional scheme of Articles 14 and 16 of the Constitution appointments to government posts have to be achieved by merit and not acquired by inheritance. Constitutional law holdings have disapproved conversion of compassionate appointments into a source of recruitment.

#### **IV. Delay in compassionate appointment**

10. It is also important to state that the appointment on compassionate grounds is not intended to create a windfall

for the kin of the deceased but only provide means of the family of the deceased to keep the kitchen fire burning.

11. The legislative intent and judicial rationale for appointment on compassionate grounds is subserved only when an application for appointment on compassionate grounds is made in quick time and in near proximity to the death of the employee. No delay can be brooked in the applications for grant of appointment on compassionate grounds. Constitutional law holdings regarding compassionate ground appointment mandate that dependents claimants have to be vigilant about their rights and ought to diligently prosecute their application for appointment. Delay in filing of the application or apathy in prosecution of the case before the Court for grant of compassionate appointment has not been countenanced by the Courts. Delay in filing of the application for appointment, or laches in instituting a writ petition before the Court raises a presumption that financial crises being faced by the family of the deceased has ceased to exist.

12. The delays can be of two types namely delay in filing the application and neglecting to prosecute the same before the authorities, and laches in invoking the writ jurisdiction after failure of the authorities to process the application in an expeditious time frame. Delays of both the aforesaid categories are fatal to the legitimacy of the claim for

compassionate appointments. In such cases the rationale for compassionate appointment does not survive due to the said delays or laches. Infact pretty often such delays reflect an entitlement culture which has taken root by an over liberal attitude in grant of compassionate appointment. Further filing such applications or writ petition after an inordinate delay also evidence a misplaced view that such appointments are a vested right. The law has clearly set its face against the delays of both kinds as discussed earlier.

#### **V. Delay in the facts of this case**

13. In the facts and circumstances of the case the petitioner has sought to explain the delay by filing a supplementary affidavit. According to the petitioner he had passed intermediate in the year 2017. He was enrolled in BA course in Prof. Rajendra Singh (Rajju Bhaiya) University of Prayagraj in the academic year 2018-19. The petitioner completed his graduation in the year 2021. Thereafter as per the petitioner he was involved in litigation against his uncle in the year 2022 which is still pending.

14. According to the petitioner the scheme which is applicable to his case is the revised scheme for grant of appointment on compassionate grounds in State Bank of India. The scheme was promulgated on 16.03.2021. The relevant provision relied on for supporting the argument that

there are no laches on the part of the petitioner is clause 9 of the e-Circular dated 16.03.2021. Clause 9 is extracted hereunder for ease of reference:

"9. Time Limit For Considering Applications-

Request for compassionate appointment should be submitted within six months from the date of death/retirement on medical grounds due to incapacitation before reaching the age of 55 years.

In some cases the dependent family may not be ready to submit the application for compassionate appointment in view of the fact that the dependent child is minor and may wait to attain the eligible age and qualification etc. required for the position under compassionate ground. When the dependent child is in the midst of some higher course, he/she may require some ore time to complete the course before applying for the job under compassionate ground. While considering such belated requests, it should be kept in view that the concept of compassionate appointment is largely related to the need for immediate assistance to the family of the employee in order to relieve it from economic distress. The very fact that the family has been able to manage somehow all these years should normally be taken as adequate proof that the family had some dependable means of subsistence. Therefore, examination of such cases would call for a great deal of circumspection. In this connection, five years shall be the outside limit in all cases and no proposals for compassionate appointment of a dependent will be considered after five years from the date of 'death of employee'/ 'retirement of the employee on medical ground'

15. The scheme contemplates that the application for compassionate grounds appointment is liable to be submitted within six months from the date of death of the employee.

16. The first application was made on behalf of the petitioner within the aforesaid time period. The second application/reminder was admittedly made after a period of

five years. The provision in the scheme which gives some latitude to the employee for condoning the delay have to be read in light of the holdings of constitutional courts and in the facts and circumstances of each case so as to ensure that eligible claimants are not denied their just dues or rights under the scheme. The scheme envisages that the dependent child should be in the midst of some higher (educational) course, and may require some more time to complete the course before applying for job under compassionate ground. The said precondition for enlargement of time for applying for compassionate appointment or grant of such appointment is not satisfied in this case as the succeeding paragraphs will demonstrate.

17. Admittedly the petitioner has completed graduation in the year 2021. He did not pursue any higher course thereafter. Thereafter almost a half decade was spent by him in family litigation. The fact is that the petitioner showed no sense of urgency for approaching the Court, but was instead continuously engaged himself in family litigation. The conduct of the petitioner gives rise to the inference that immediate financial crises which the family may have sustained as a result of the death of the employee in the year 2019 had long ceased to exist. In wake of the above said facts the clause in the compassionate appointment scheme



relied upon by the petitioner is not applicable to the facts of this Case and the petitioner cannot benefit from the same.

12. This Court in **Ashish Yadav Vs. Managing Director, UP State Road Transport Corporation and others** rendered in **Writ A No. 17483 of 2024**) stated as under:

"25. A Division Bench of this Court after citing authorities in point also concluded that financial penury ceases to exist in case an application was made long years after the death of the employee in the case of Smt. Sonal Laviniya and another vs. Union of India and another reported at 2003 (5) AWC 4070:

"38. The purpose of providing such an employment has been to render the financial assistance to the family, which has lost the bread earner immediately after the death of the employee. If the application has been filed after expiry of 9½ years the element of immediate need stood evaporated and there was no occasion for the respondents to consider the case of the petitioner for such a relief. The observation made by the learned Tribunal are in consonance with the law laid down by the Hon'ble Apex Court and no exception can be taken out."

19. More recently the Supreme Court in **Canara Bank v. Ajithkumar G.K.** reported at **2025 SCC OnLine SC 290** while examining the impact on the legality of appointment on compassionate grounds held as under:

"11.(j). An application for compassionate appointment has to be made immediately upon death/incapacitation and in any case within a reasonable period thereof or else a presumption could be drawn that the family of the deceased/incapacitated employee is not in immediate need of financial assistance. Such appointment not being a vested right, **the right to apply cannot be exercised at any time in future and it cannot be offered whatever the lapse of time and after the crisis is over.**

(emphasis supplied)

27. Lapse of time could, however, be a major factor for denying compassionate appointment where the claim is lodged belatedly. A

presumption is legitimately drawn in cases of claims lodged belatedly that the family of the deceased/incapacitated employee is not in immediate need of financial assistance. However, what would be a reasonable time would largely depend on the policy/scheme for compassionate appointment under consideration. If any time limit has been prescribed for making an application and the claimant applies within such period, lapse of time cannot be assigned as a ground for rejection."

20. As stated earlier in the facts of this case the petitioner had undoubtedly made the application within the prescribed time but had approached this Court after an inordinate delay. The delay in approaching the Court was deliberate choice made by the petitioner and not a *fait accompli* forced by penurious circumstances. On the contrary as seen earlier the petitioner had busied himself in litigation for long years with his family members. He was always aware of his rights and possessed the wherewithal to approach this Court as well. In these circumstances the laches on the part of the petitioner in approaching this Court are not liable to be condoned. The writ petition is barred by delay and laches.

21. The second aspect as to whether filing of representations would suffice to condone the laches in instituting the writ petition will now be examined. The law is well settled that mere filing of representations over long years or even instituting a writ petition to decide the same after a long delay does not condone the laches on the part of the

litigation. The discussion has advantage of good authorities in point.

22. The Supreme Court in **C. Jacob v. Director of Geology and Mining and another** reported at (2008) 10 SCC 115 held as under:

"Every representation to the Government for relief, may not be replied on merits. Representations relating to matters which have become stale or barred by limitation, can be rejected on that ground alone, without examining the merits of the claim. In regard to representations unrelated to the department, the reply may be only to inform that the matter did not concern the department or to inform the appropriate department. Representations with incomplete particulars may be replied by seeking relevant particulars. The replies to such representations, cannot furnish a fresh cause of action or revive a stale or dead claim."

23. The Supreme Court in **Gian Singh Mann v. High Court of Punjab and Haryana and another** reported at (1980) 4 SCC 266 held as under:

"3. In regard to the petitioner's claim for promotion to the Selection Grade post in the Punjab Civil Service (Judicial Branch) with effect from 1st November, 1966, and to a post in the Punjab Superior Judicial Service with effect from 1st May, 1967 on the basis that a post had been reserved in each of the services for a member of the Scheduled Castes, it seems to us that the claim is grossly belated. The writ petition was filed in this Court in 1978, about eleven years after the dates from which the promotions are claimed. There is no valid explanation for the delay. That the petitioner was making successive representations during this period can hardly justify our overlooking the inordinate delay. Relief must be refused on that ground. It is not necessary, in the circumstances, to consider the further submission of the respondents that the provision on which the petitioner relies as the basis of his claim is concerned with the appointment only of members of the Scheduled Castes to posts in the Punjab Superior

Judicial Service and not to recruitment by promotion to that service."

24. This Court has to be conscious of the fact that constitutional law holdings have repeatedly cautioned that compassionate grounds appointments are not vested right nor can they be claimed or granted as a matter of course. Misplaced sympathy or an overliberal approach in construing the issue of delay without regard to the facts and circumstances of the case will denude the very legality of the compassionate ground appointment. If compassionate appointments are allowed to be claimed without regard to the holdings of constitutional courts, such appointments will end up the hereditary appointment and will amount to reservation without the authority of law. Furthermore any such appointments made out of misplaced sympathy will preclude a more eligible claimant from applying for the appointment through the open source of recruitment and on competitive merit.

25. The respondent bank is certainly precluded from denying the compassionate grounds appointment on the grounds of delay in view of **Ajit Kumar (supra)**. However, this Court can always look into the issue of delay and laches on the part of the petitioner and decline to exercise its extraordinary jurisdiction under Article 226 of the Constitution of India.

26. In the facts and circumstances of this case, this Court has not condoned the delay and laches on the part of the petitioner, but equally the Court cannot countenance the apathy on part of the respondent bank. Costs of Rs. 100,000/- are imposed upon the respondent bank for failing to decide the representation of the petitioner in an expeditious time frame in light of the charter of their duties. The costs shall be paid to the petitioner within a period of two months from the date of receipt of a certified copy of this order.

27. In wake of the preceding discussions, the writ petition is liable to be dismissed and is dismissed.

**Order Date :-** 25.09.2025  
Dhananjai