



## IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 6349 of 2023

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE NIRZAR S. DESAI

Approved for Reporting	Yes	No

RAMILABEN VITTHALBHAI JAMBU

Versus

LIC INDIA &amp; ORS.

Appearance:

MR VAIBHAV A VYAS(2896) for the Petitioner(s) No. 1

DS AFF.NOT FILED (N) for the Respondent(s) No. 2,3

NILAY H PATEL(7856) for the Respondent(s) No. 1

CORAM:HONOURABLE MR. JUSTICE NIRZAR S. DESAI

Date : 03/03/2025

## ORAL JUDGMENT

1. Heard, learned Advocate, Mr. Vyas, appearing for the petitioner and learned Advocate, Mr. Patel, appearing for the Respondents.

1.1 With the consent of the learned Advocates for the parties, this matter was taken-up for hearing and final disposal, today. Hence, **RULE**. Learned Advocate, Mr. Patel, waives service for the Respondents.

2. By way of this petition, the petitioner has prayed to



quash and set aside the communication / order dated 01.12.2022, whereby, the application of the petitioner for grant of compassionate appointment to her son was rejected as well as the communication / order dated 28.12.2022, whereby, the petitioner's representation to reconsider the case of her son for compassionate appointment was rejected.

2.1 The petitioner has also sought a direction qua the Respondents to grant compassionate appointment to her son.

3. Brief facts, leading to the filing of the present petition, are that the late husband of the petitioner, namely Vitthalbhai Jambu, was working as Administrative Officer with the Respondent-Life Insurance Corporation and he passed away, while in service, on 17.08.2022, leaving behind his bereaved wife, i.e. the present petitioner, a son, who at the relevant point of time was 23 years of age, and a daughter, who, at that point of time, was aged about 22 years and was pursuing her MD in Pharmacology.

3.1 According to the petitioner, the Respondent-LIC has framed regulations, known as Life Insurance Corporation of India (Staff) Regulations, 1960, and as per the provisions of Regulation 4 thereof, it has issued certain instructions, which are called as Life Insurance Corporation of India (Recruitment of Class-III and Class-IV Staff) Instructions, 1979 and Clause-21 thereof, pertains to relaxation in favour of near relatives of an employee, who passed away, while in service, or retires at least five years prior to the date of his superannuation.



3.2 Pursuant to the death of her husband, the petitioner made an application on 08.09.2022, seeking terminal benefits as well as the compassionate appointment for her son Parth, who was major / adult at that point of time. In other words, the petitioner also made a request to grant compassionate appointment to her son by way of application dated 08.09.2022, namely Parth, who was major at that point of time, which ultimately came to be rejected by the Respondents vide order dated 01.12.2022, on the ground that the family members of the petitioner are already gainfully employed.

3.3 Being aggrieved with the same, the petitioner made a representation dated 15.12.2022 to the Respondents with a request to reconsider the case of her son, Parth, for compassionate appointment. However, the said representation also came to be rejected vide order dated 28.02.2022.

Hence, the present petition.

4. Learned Advocate, Mr. Vyas, appearing for the petitioner submitted that the application of the petitioner dated 08.09.2022 for grant of compassionate appointment to her son came to be rejected on the ground that her family is gainfully employed.

4.1 Learned Advocate, Mr. Vyas, referred to the decision of the Hon'ble Apex Court in the case of '**Govind Prakash Verma Vs. Life Insurance Corporation of India and**



***Others'***, reported in (2005) 10 SCC 289, wherein, the view is taken that an application for compassionate appointment cannot be rejected on the ground that the family of a deceased employee has received service benefits in the event of death of an employee. The Hon'ble Apex Court has, further, held that it is totally irrelevant to take into consideration the amount, which was being paid as family pension to the widow of the deceased employee and thereby, it was submitted that the present Respondents ought not to have rejected the application of the petitioner for grant of compassionate appointment to her son.

4.2 Learned Advocate, Mr. Vyas, submitted that the application of the petitioner for grant of compassionate appointment to her son was rejected only on the ground that the petitioner's family is gainfully employed. However, in the affidavit-in-reply filed on behalf of the Respondents, apart from taking the ground of family being gainfully employed, have also taken a stand that the daughter of the petitioner is getting stipend of Rs.84,000/- per month, which cannot be said to be either an income or that the daughter of the petitioner is gainfully employed.

4.3 Insofar as the receipt of terminal benefits to the tune of Rs.1,85,52,706 - (One Crore Eighty Five Lakh Fifty Two Thousand Seven Hundred and Six Rupees) towards terminal benefits, receipt of family pension of Rs.47,085/- and stipend of Rs.84,000/- by the daughter of the petitioner per month is concerned, it was submitted that such grounds, which are



stated in the affidavit-in-reply, are additional grounds, which were not there in the original order dated 01.12.2022 and therefore, the Respondents could not have relied on the same in view of the decision of the Apex Court in the case of '**Govind Prakash Verma**' (Supra).

4.4 Learned Advocate, Mr. Vyas, next, placed reliance on the decision of the learned Single Judge of the Madhya Pradesh High Court, rendered in the case of '**Junior Doctors Association and Another Vs. The Chief Commissioner of Income Tax and Others**' in W.P. No. 1309 of 2007, Dated: 02.05.2008, more particularly, the observations made in Paragraph-17 thereof, wherein, the learned Single Judge of the Madhya Pradesh High Court has held that as there is no 'Employer' and 'Employee' relationship between the State Government and a student pursuing PG course. It is, further, held that a PG student may be required to examine or attend to a patient, but, that is a part of the course and the stipend is not being paid for any kind of services rendered by a PG student and the stipend is paid to a PG student, only with a view to enable a PG student to meet with the costs of education and thus, the same would be in the nature of a scholarship. It was, therefore, submitted that the petitioner's daughter is getting a stipend of Rs.84,000/- per month cannot be termed as an income and it cannot be said that the petitioner's family is gainfully employed.

4.5 By making the above submissions, learned Advocate, Mr. Vyas, prayed that the impugned orders dated 01.12.2022 and



28.02.2022 be quashed and set aside.

No other submission was made.

5. At this stage, this Court put a query to learned Advocate, Mr. Vyas, as to whether, the act of the petitioner of making an application to grant compassionate appointment to her son, who was major at that point of time, can be said to be a valid act and as to whether, when the son of the petitioner, who is the ultimate beneficiary, has not made any application to the Respondents for grant of compassionate appointment to him and when he has also neither made any representation to the Respondents to reconsider his case nor has even approached this Court, challenging the orders dated 01.12.2022 and 28.12.2022, can it be said that the petitioner, being his mother, has any locus to file the present petition.

5.1 In response to the query raised by this Court, learned Advocate, Mr. Vyas, could not point out any authority or decision of the Hon'ble Apex Court or of this Court, which shall favour the case of the petitioner. He, however, submitted that the petitioner, being a mother, was merely canvassing the case of her son and therefore, the application made by the petitioner for grant of compassionate appointment to her son is valid.

5.2 Further, learned Advocate, Mr. Vyas, fairly submitted that he is advancing the case of the petitioner, as a mother, but, he is not in a position to establish the locus of the petitioner.



6. Learned Advocate, Mr. Patel, appearing for the Respondents submitted that apart from getting a huge sum of about Rs.1,85,00,000/- towards terminal benefits, the family of the petitioner is also getting about Rs.45,000/- per month towards family pension, whereas, the daughter of the petitioner, who is pursuing her PG course, is also getting about Rs.84,000/- per month towards stipend.

6.1 It was, further, submitted that the purpose behind the scheme of compassionate appointment is to grant immediate help to the bereaved family, on account of sudden death of the breadwinner of the family and in the instant case, where, the petitioner has no locus to even make an application to grant compassionate appointment to her son, who is major, and when the son of the petitioner has neither approached the Respondents with an application to grant him compassionate appointment nor has approached this Court against the impugned orders dated 01.12.2022 and 28.12.2022, filing of such an application by a person having vested interest is nothing, but, gross misuse of a pious scheme and therefore, this petition is required to be dismissed.

6.2 It was submitted that the present petition, in this petition, has not disclosed that her family has received a huge sum of about Rs.1,85,00,000/- towards terminal benefits and they are getting family pension of about Rs.45,000/- per month and that even the daughter of the petitioner is also getting Rs.84,000/- per month towards stipend and therefore, on the ground of



suppression as well, this petition deserves to be dismissed.

6.3 It was also submitted that the husband of the petitioner was discharging duties as Class-I officer and therefore also, the petitioner is not entitled to claim the benefit of compassionate appointment for her son, more particularly, when her family has received a huge sum towards terminal benefits and they are also getting substantial sums towards family pension and by way of stipend of her daughter. Thereby, it was submitted that the Respondents rightly rejected the application of the petitioner for grant of compassionate appointment to her son, who is major and who has neither made any application for compassionate appointment nor has made any representation to the Respondents to re-consider his case nor has approached this Court, challenging the impugned orders and therefore, it was prayed that this petition be dismissed, apart from the ground of locus of the petitioner to file such a petition, on merits, as well.

6.4 Learned Advocate, Mr. Patel, invited the attention of this Court to the decision of the Hon'ble Apex Court, rendered in Civil Appeal No. 255 of 2025 the case of '**Canara Bank Vs. Ajithkumar G.K.**', Dated: 11.02.2025, wherein, at Paragraph-11, the Apex Court has reiterated the well-settled principles of compassionate appointment, which have been crystallized into the rule of law and thereby, submitted that the same shall squarely apply in the case on hand, even if, the locus of the petitioner is not taken into consideration and only the merits of the case are kept in mind. He, in any case, submitted that the





petitioner has no locus to either make an application or to make a representation for grant of compassionate appointment on behalf of her son, who is major, and therefore, she could not have even file this petition, challenging the orders dated 01.12.2022 and 28.12.2022, especially, when the son of the petitioner never approached either the Respondent-authorities with an application to grant him compassionate appointment or has challenged the orders of the Respondent authorities, rejecting the application of the petitioner, who happens to be his mother, for grant of compassionate appointment to him as well as the representation made by her to reconsider the case of her son.

6.5 Learned Advocate, Mr. Patel, relied on the following decisions, which are referred to by the Hon'ble Apex Court at Paragraph-11 in the case of '**Canara Bank Vs. Ajithkumar G.K.**' (Supra), in support of his submissions;

(1) In '**Union of India v. Amrita Sinha**', reported in (2021) 20 SCC 695, the Hon'ble Apex Court held that 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;

(2) In '**Umesh Kumar Nagpal v. State of Haryana**', reported in (1994) 4 SCC 138, the Hon'ble Apex Court



laid down that the object of compassionate employment is not to give a member of a family of the deceased employee a post much less a post for post held by the deceased. Offering compassionate employment as a matter of course irrespective of the financial condition of the family of the deceased and making compassionate appointments in posts above Class III and IV is legally impermissible;

(3) In '**Haryana Public Service Commission v. Harinder Singh**', reported in (1998) 5 SCC 452, the Hon'ble Apex Court observed that the case of the dependents, if, gainfully employed cannot be considered for compassionate appointment;

(4) In '**General Manager (D and PB) v. Kunti Tiwar**', (2004) 7 SCC 271, it is held that the retiral benefits received by the heirs of the deceased employee are to be taken into consideration to determine if the family of the deceased is left in penury and the court cannot dilute the criterion of penury to one of "not very well-to-do";

(5) While referring to the earlier decisions in the case of '**Union of India v. Shashank Goswami**', reported in (2012) 11 SCC 307, '**Union Bank of India v. M. T. Latheesh**', reported in (2006) 7 SCC 350, '**National Hydroelectric Power Corporation v. Nank Chand**', reported in (2004) 12 SCC 487 and '**Punjab National**



***Bank v. Ashwini Kumar Taneja'***, (2004) 7 SCC 265, the Hon'ble Apex Court observed that financial condition of the family of the deceased employee, allegedly in distress or penury, has to be evaluated or else the object of the scheme would stand defeated inasmuch as in such an eventuality, any and every dependent of an employee dying-in-harness would claim employment as if public employment is heritable;

(6) In '***State Bank of India v Somveer Singh'***, reported in (2007) 4 SCC 778, it is held that the terminal benefits, investments, monthly family income including the family pension and income of family from other sources, viz. agricultural land were rightly taken into consideration by the authority to decide whether the family is living in penury or not;

6.6 Learned Advocate, Mr. Patel, submitted that, considering the ratio laid down by the Hon'ble Apex Court by referring to the aforesaid decisions, this petition be dismissed.

7. I have heard the learned Advocates for the parties and also perused the material produced on record and I find that the present petition is preferred by the wife of the deceased employee, seeking compassionate appointment on behalf of her son, who is major and who has neither made any such application to the Respondents for granting compassionate appointment to him nor has he come before this Court challenging the impugned orders dated 01.12.2022 and



28.12.2022, whereby, the application and the representation of his mother, i.e. the present petitioner, for grant of compassionate appointment to her son are rejected and thus, the present petitioner has no locus to file the present petition, since, the petitioner has no right to claim compassionate appointment on behalf of her son, who is major. Therefore, this petition deserves to be dismissed on the ground of locus, itself, apart from the other grounds, which I shall discuss in the ensuing paragraphs.

7.1 Further, this petition also deserves to be dismissed on the ground of suppression of material facts, as the financial condition of the bereaved family of a deceased employee is one of the paramount considerations for grant of compassionate appointment, as is laid down by the Hon'ble Apex Court in the case of '**Canara Bank Vs. Ajithkumar G.K.**' (Supra), while taking note of the judicial precedents on the issue of compassionate appointment.

7.1.1 In the case on hand, in the entire petition, which runs into about 10 pages, not even a single line is devoted by the petitioner to indicate the financial condition of her family, though, the family of the petitioner has received around Rs.1,85,00,000/- towards terminal benefits and they are getting monthly pension of about Rs.45,000/- per month, whereas, the daughter of the petitioner is also getting Rs.84,000/- towards stipend. The aforesaid aspect came to the light only when, the Respondents filed the reply stating all those facts. Considering the fact that the purpose and the



intention of granting compassionate appointment is to mitigate the hardships and financial difficulties of the family of a deceased employee, which has lost its breadwinner, the petitioner was required to disclose the true and correct facts before this Court, more particularly, when the application of the petitioner for grant of compassionate appointment is rejected on the ground that her family is 'Gainfully Employed'. Hence, this Court, *prima facie*, is of the opinion that the only aim or intention on the part of the petitioner was to get compassionate appointment for her son by one way or the other, i.e. without disclosing the true and correct facts with regard to the financial condition of her family and therefore, this petition deserves to be dismissed on the ground of suppression, itself. Further, when a person is seeking compassionate appointment, he or she is expected to state the true and correct facts about the financial condition of his / her family, as the same is one of the vital aspects to be taken into consideration, while deciding an application for compassionate appointment. In the present case, the petitioner appears to have concealed the facts with regard to the financial condition of her family. Therefore, this petition deserves to be dismissed on the ground of suppression, as well.

7.2 Considering the fact that the financial condition of the family of a deceased employee, seeking compassionate appointment, is one of the important factors for granting the same, it would be relevant to refer to the observations made by the Hon'ble Apex Court in that regard in the following decisions;



(1) In the case of '**Union of India v. Amrita Sinha**', (Supra), the Hon'ble Apex Court held as under at Paragraphs- 9 to 11 thereof;

*"9. While assessing the rival submissions, it becomes necessary, at the outset, to consider the reasons which weighed with the Tribunal since it is the view of the Tribunal which has been held not to suffer from error by the High Court. Under the policy document, which embodies the Scheme for considering cases for compassionate appointment, points are awarded under diverse heads. The monthly pension which was payable to the respondent was required to be taken into account in the award of merit points. The Tribunal, however, came to the conclusion that pension is paid for past service rendered by the employee and, hence, denial of compassionate appointment on that basis was not justifiable. This reasoning of the Tribunal is fallacious. Undoubtedly, pension is not an act of bounty, but is towards the service which has been rendered by an employee. However, in evaluating a claim for compassionate appointment, it is open to the authorities to evaluate the financial position of the family upon the death while in service. Compassionate appointment is not a vested right. It is provided in order to enable a family to tide over a financial crisis caused by the death of its wage-earner while in service. If the scheme requires that the family pension must be taken into account in evaluating the merits an*



*application, it has to be followed.*

10. *In the present case, the family pension which was payable as on the date of the consideration of the application has been taken into account. The fact that the pension would be up for revision in terms of the policy after a decade was not a reason to discard the pensionary payment which was being made towards family pension on the date of the consideration of the application for compassionate appointment.*

11. *Compassionate appointment is not a matter of right, but is to enable the family to tide over an immediate crisis which may result from the death of the employee. If the policy of the government envisages that the family pension would be paid for a ten years after which it would have to be modified, it cannot be said that by taking into account the present pensionary payment, the authorities have considered an extraneous circumstance. The same criterion is applied even handedly to all applicants seeking compassionate appointment."*

(2) In the case of '**Haryana Public Service Commission v. Harinder Singh**' (Supra), at Paragraph-8 the Hon'ble Apex Court held thus;

"8. *The whole idea of the reservation is that those who are dependent for their survival on men who have lost their*



*lives or become disabled in the service of the nation should not suffer. The public purpose of such reservation would be totally lost if it were to be made available to those who are gainfully employed. There is no justification for construing the words “dependents of ex-serviceman” in any manner other than that in which the appellant has construed them. This is in accord with the reservation policy itself, as shown by the quotation therefrom aforestated.”*

(3) At Paragraph-9, in the case of '**General Manager (D and PB) v. Kunti Tiwar**' (Supra), the Hon'ble Apex Court observed and held as under;

*“9. On the basis of the criteria as recommended by the Indian Banks Association and adopted by the appellant Bank, it could not be said that the family of the late K.N. Tiwary had been left in “penury” or “without any means of livelihood”. The particulars of their income have been noted in their application and it certainly could not be said on the basis thereof that the respondents were living hand to mouth. The Division Bench erred in diluting this criteria of penury to one of “not very well-to-do”. ”*

(4) The observations made by the Hon'ble Apex Court at Paragraph-37 in the case of '**Union Bank of India v. M. T. Latheesh**' (Supra), runs as under;

*“37. It is also settled law that the specially constituted*





*authorities in the rules or regulations like the competent authority in this case are better equipped to decide the cases on facts of the case and their objective finding arrived on the appreciation of the full fact should not be disturbed. Learned Single Judge and the Division Bench by directing appointment has fettered the discretion of the appointing and selecting authorities the Bank had considered the application of the respondent in terms of the statutory scheme framed by the Bank for such appointment. After that even though the Bank found the respondent ineligible for appointment to its service, the High Court has found him eligible and has ordered his appointment. This is against the law laid down by this Court. It is settled law that the principles regarding compassionate appointment that compassionate appointment being an exception to the general rule the appointment has to be exercised only in warranting situations and circumstances existing in granting appointment and guiding factors should be financial condition of the family. The respondent is not entitled to claim relief under the new scheme because the financial status of the family is much above the criterion fixed in the new scheme.”*

7.3 In view of the above discussion as well as the observations made by the Hon'ble Apex Court and as reproduced herein above, even if, the case of the petitioner is considered, apart from her locus, then also, the fact remains that her family received about Rs.1,85,00,000/- towards



terminal benefits and is getting family pension of Rs.45,000/- per month and apart from that, her daughter is also getting Rs.84,000/- per month towards stipend. Thus, from the above, the overall picture of the financial condition of the family of the petitioner emerges is that the same is strong and therefore, it cannot be said that it shall be difficult for the family members of the petitioner to maintain, themselves. Therefore, the decision relied on by learned Advocate, Mr. Vyas, shall not apply in the case on hand.

7.4 Considering the fact that the system or policy of compassionate appointment is introduced in most of the organizations with a pious intention to provide immediate relief to the bereaved family of an employee, who passed-away in harness and therefore, such a policy or system cannot be permitted to be misused by anyone. This Court could have imposed costs of Rs.50,000/- on the petitioner for suppression of material facts, but, considering the fact that the compassionate appointment is a benevolent scheme and the only intention on the part of the petitioner was to secure compassionate appointment on behalf of her son, this Court refrains itself from imposing any costs on the petitioner.

8. Resultantly, this petition fails and the same is **DISMISSED**. Rule is discharged. No order as to costs.

UMESH/-

(NIRZAR S. DESAI,J)