



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

S.B. Civil Writ Petition No. 10350/2016

Bharat Kumar S/o Late Shri Deva Ram (Helper-II), Aged
About 22 years, By Caste Meghwal, R/o village Goyali,
Tehsil & District Sirohi.

-----Petitioner

Versus

1. Rajasthan Rajya Vidhyut Prasaran Nigam Ltd., Jaipur
through its Managing Director.
2. Secretary (Administration), Rajasthan Rajya Vidhyut
Prasaran Nigam Ltd., Jaipur.
3. Superintendent Engineer (TCC-VIII) Rajasthan Vidhyut
Prasaran Nigam Ltd., Sirohi.
4. Executive Engineer (200 KV GSS) Rajasthan Vidhyut
Prasaran Nigam Ltd., Sirohi.
5. Junior Engineer, Rajasthan Vidhyut Prasaran Nigam
Ltd., Velangiri, District Sirohi.
6. Personnel Officer (TCC-VIII) Rajasthan Vidhyut
Prasaran Nigam Ltd., Sirohi.

-----Respondents

For Petitioner(s)	:	Mr. Pradhyuman Singh
For Respondent(s)	:	Mr. Dhanesh Saraswat Mr. Vipul Dharnia

HON'BLE MR. JUSTICE ARUN MONGA

Order (Oral)

07/03/2025

1. Fate has rather been cruel to the petitioner herein. He was a mere two-year-old when tragedy first struck. He lost his father, the sole bread winner of family, and was left to be raised by his illiterate widowed mother, who struggled to survive on a meager family pension. Tragedy struck again, when his elder brother, the family's last hope, also died



while his application for a compassionate appointment was still pending. The weight of these unbearable losses shattered his mother's mental stability. Now, with nothing but the scars of relentless misfortune, he stands before this Court, seeking not charity, but in hope for justice by way of a directive to the respondents to alleviate his suffering and grant him the compassionate appointment in terms of the applicable policy when an employee dies in harness.

2. The facts in brief are as follows:-

2.1. The father of the petitioner, working as Helper-II with the respondent-Rajasthan Rajya Vidhyut Prasaran Nigam Ltd. (for brevity, 'the Nigam'), passed away on 22.08.1997. Upon his death, his widow Smt. Anshu immediately submitted an application dated 29.08.1997 along with requisite documents stating inter-alia that she being illiterate, compassionate appointment be given to either of the sons (aged 7 years and 2 years respectively) upon attaining majority.

2.2. Upon attaining majority, Kamlesh` Kumar (elder brother of the petitioner), approached the respondents for grant of compassionate appointment. After consistent persuasions, finally the matter of brother of the petitioner was processed by the respondents vide communication dated 11.01.2012 (Annexure-P/2). Thereafter, the application of petitioner's elder brother moved from table to table but to no avail. Unfortunately, the petitioner's brother also expired untimely on 22.06.2015.



2.3. The petitioner then moved a representation dated 06.07.2015 to the respondents informing about the death of his elder brother and, therefore, substitute him as compassionate appointee. However, despite legal notice nothing was heard by the petitioner. Hence, this petition.

3. The stand taken by the respondent-Nigam in its reply is that as per the provisions of the Rajasthan Compassionate Appointment of Dependents of Deceased Government Servants Rules, 1996, the surviving spouse should have applied for appointment of self or any other dependent within a period of 45/90 days respectively from the date of death of employee. In the present case, neither the surviving spouse, i.e. the widow, submitted an application for compassionate appointment nor the timely information of minor dependent on attaining the age of majority was given in the prescribed time limit. It is stated inter-alia that the elder son attained majority on 07.04.2008. The application for compassionate appointment was received in the year 2012, i.e. after about a delay of three and a half years. Therefore, the same was found to be belated for giving appointment on compassionate ground. Said decision was communicated vide letter dated 13.07.2015. Likewise, the application of the present petitioner was also found barred by time for the same, which decision was communicated vide communication dated 15.02.2016 (Annex.R/6).

4. In the aforesaid backdrop, I have heard the rival contentions and perused the case file.



5. Learned counsel for the petitioner submits that family of the petitioner resides in tribal area and for surviving, the family is dependent upon meager family pension, which was accorded to the widow mother. He further points out that the petitioner or his brother, since they lived in the remote tribal area, were ignorant about the application to be filed within 90 days and were sanguine that upon the elder brother of the petitioner completing his education, he would get favourable treatment as per Rule 10 *ibid*, upon their approaching the respondents. It was in these circumstances, delay of 3 years 6 months took place and the petitioner's elder brother, as soon as finishing education, applied for compassionate appointment. He would argue that even the aforesaid Rule 10, in its proviso, clearly envisages that in exceptional cases, the limitation can be condoned by the competent authority.

6. Instant is a case, he would submit that not only the entire family was visited with financial calamity reducing them to live in penury with the meager family pension given to the widow mother and had to barely scrape through student days of petitioner's elder brother to wait for his degree to get benefit of the same only to be told that their application is time barred. He would further point out that after the death of the elder brother, the petitioner is the only surviving male member in the family and has to look-after his widow mother and in the family pension two of them are unable to survive given the extra expenditure, which the petitioner has to bear on the treatment of his



mother, who having lost her husband and thereafter elder son, at young age of 22 years, is suffering from both physical and mental ailments.

7. On a Court query, as to how does he contend that the mother is suffering from mental ailment, in the course of hearing, learned counsel for the petitioner has tendered the aforesaid medical record of the mother of the petitioner in support of the fact that she is currently is not in sound state of mind being under severe depression caused by death of her husband and elder son.

8. Per contra, learned counsel for the respondent has placed reliance on the judgments of Supreme Court rendered in the case of **Punjab State Power Corporation Ltd. & Ors. Vs. Nirval Singh [(2019) 6 SCC 774]** and **Tinku Vs. State of Haryana [2024 INSC 867]**. He argues that the delay in approaching the courts for redressal after a period of 3 years is fatal. The very objective of providing immediate amelioration to the family is extinguished. In any case, it is not a vested right but a discretion of the employer, he contends.

9. I shall now proceed to render my opinion by recording reasons hereinafter. First and foremost, the impugned order dated 15.02.2016 (Annex.R/6), vide which application of the petitioner was rejected may be seen. The translated version of the same is reproduced as under:-

**"Rajasthan State Electricity Transmission
Corporation Limited
Vidyut Bhawan, Jyothi Nagar, Jaipur**



No. RVPN/ Personnel/ Compassionate/ P.540/469 Jaipur 15.02.2016

Technical Assistant-Hon'ble Minister of State,
Energy Department,
Government of Rajasthan,
Jaipur.

Subject:- Regarding compassionate appointment of Shri Bharat Kumar S/o. late Shri Devaram Meghwal.

Reference:- In continuation of your office letter No. 4838 dated 06.10.2015.

Sir,

In respect of the aforesaid subject matter and the letter referred to, it is requested that Superintending Engineer (TCC-VIII) RRVPNL, Sirohi had forwarded an application form of Shri Bharat Kumar son of late Shri Devaram Meghwal, vide letter number 1350 dated 11.08.2015.

In this regard, it is stated that Shri Devaram passed away on 22.08.1997. He was working as Assistant-II in the office of Executive Engineer (220 KV GSS), RRVPNL, Sirohi. The deceased's wife Smt. Anshu Devi had submitted an application form for compassionate appointment of her elder son Shri Kamlesh Kumar on 11.01.2012. At that time, Shri Kamlesh Kumar was 21 years old. As per the date of birth of Shri Kamlesh Kumar as 08.04.1990, he had attained the age of 18 years (adulthood) on 07.04.2008.

Therefore, he should have submitted the application for the job within 90 days (by 06.07.2008) after the said date, but the applicant submitted the application after about 03 years 06 months 06 days and did not present any justifiable reason for submitting it late. Therefore, the application for compassionate appointment of Shri Kamlesh Kumar was not considered. The information of which has been sent to you through letter no. 347 dated 13.07.2015.

Subsequently, Superintending Engineer (TCC-VIII), RRVPNL, Sirohi, forwarded the compassionate appointment case of Shri Kamlesh Kumar's younger brother, Shri Bharat Kumar, informing that Shri Kamlesh Kumar had passed away on 22.06.2015. Since Shri Kamlesh Kumar's case was submitted with a delay of 3 years, 6 months, and 6 days, and was therefore rejected, the application submitted by his younger brother, Shri Bharat Kumar, after his death, has also not been considered.



The factual position is forwarded for your information.

Yours sincerely
Pukhraj Sen
Secretary (Administration)"

9.1 Before proceeding further, let us see relevant clause of the rules, i.e. the Rajasthan Compassionate Appointment of Dependents of Deceased Government Servants Rules, 1996, which was applicable in the case of the petitioner. Rule 10 thereof reads as under:-

"10. Procedure.

(1) On the death of a Government servant the surviving spouse shall apply for appointment for self or for any other dependent.

(2) Where the deceased Government servant is not survived by a spouse the application shall be made by one of the dependents of the deceased Government servant and other dependents shall have to give their consent for his/her candidature.

Provided that if more than one of the dependents seek employment, the Head of Department shall select one, keeping in view the overall interest and welfare of the entire family, particularly the minor members.

(3) Such application shall be made in the Performa attached as Annexure-A to the Head of the Office/Department within a period of three months from the date of death of the Government servant. The applicant shall submit an affidavit in support of monthly income (from all sources) of the entire family members mentioned in Column No.7 of the prescribed application. Provided that where the spouse does not seek appointment for herself/himself and even the eldest of remaining dependents has not attained the age of 18 years (intimation to this effect to be given in writing within three months of the death of the government servant), the above period of limitation shall run from the date of attaining the age of 18 years by such eldest dependent.

Provided that in an exceptional case where the state Government in the Department of Personnel is satisfied that the operation of provisions of this sub-rule causes financial hardship to the family of the deceased Government servant and considers it necessary or expedient to relax the provisions of this sub-rule to such



extent and subject to such conditions as it may consider necessary for dealing with the case in a just and equitable manner."

(Emphasis supplied)

9.2 In light of Rule 10(3), it is thus, not disputed that in case of minors, their application for compassionate appointment was to be considered at the relevant time, upon attaining majority. The petitioner's elder brother, at the time of turning 18 years, was a student and was studying in ITI Course, who unfortunately died during pendency of his application seeking compassionate appointment, on 22.06.2015.

10. A perusal of the rejection order reveals that the rejection of the petitioner's application is not on the ground that his brother was minor at the time of applying. It was rejected on the ground that upon attaining majority, he ought to have applied within 90 days whereas he had committed delay of 3 years & 6 months and thus, his application was found to be time barred.

11. The conceded position is that death of the employee took place on 22.08.1997 and at the relevant time, the petitioner's elder brother was seven years old and the petitioner was two years' old.

12. In somewhat similar circumstances, this Court, in the case of **Smt. Maya L. Dinghrani Vs. U.C.O. Bank [2002 (2) RLR 74]**, speaking for this Court, J.C. Verma, J. (as he then was), observed and held as under:-

"(7) The members of the deceased are not normally aware of their any right under the scheme to apply for the compassionate appointment until and unless they are



so informed and, therefore, it is, therefore advisable that while granting the service benefits to the dependents, it shall be the duty of the employer in situation to inform the dependent as well of any of his right to apply if the circumstance so warrants for him to apply for the job on compassionate grounds. On such contingency of information being made to such dependents, the employer is entitled to say that he had given the information to the dependent or the legal heir of the existence of the rules and right to make the application for compassionate appointment but in the absence of such information having passing to such dependents, time bound clause viz., a viz dependents may not be invoked as the dependents may not be knowing the rules of the institution or where supposed to know rule of the scheme of the bank as no such situation could arise of would have arisen during the life time of the employee. It shall be appropriate that the institution respondent should invariably inform the existence of the scheme to such dependents or to the legal heirs who receive the benefits after the death of such employee. In the present case the action of the respondent bank cannot be sustained in view of the facts that the petitioner No.2 was minor of the age of 12 years and she could only apply for compassionate grounds after attaining the age of majority which was so done by the petitioner No.2 and after the attaining the age of majority, the application is deemed to be within time and could not have been rejected on this reason."

13. I am in agreement with the aforesaid view. No doubt, the aforesaid view cannot be applied in rem and it is dependent upon facts and circumstances of each case. However, having noted the peculiar facts in the present case, I am of the opinion that the petitioner deserves compassion and his case ought to have been dealt in terms of the benevolence as legislatively intended by virtue of framing of the applicable Rules herein.

14. Purpose of Compassionate Appointment is to provide immediate relief to the family of a deceased government servant, mitigating the financial distress caused by the loss of the breadwinner. In this case, ever since the father's



death in 1997, the family has relied solely on a meager family pension, insufficient to meet their basic needs. There is thus ongoing penury and calamity warranting its alleviation. The petitioner's mother is illiterate and currently suffers from both physical and mental ailments, rendering her unable to support the family. The petitioner, as the only surviving male member after the death of his elder brother, Kamlesh Kumar, in 2015, is now the sole potential breadwinner. Denying compassionate appointment would perpetuate the family's financial hardship, defeating the benevolent intent of the scheme.

15. Rule 10(3) of the 1996 Rules allows dependents who are minors at the time of the employee's death to apply for compassionate appointment within three months of attaining the age of 18. At the time of their father's death, the petitioner was 2 years old, and his elder brother was 7, clearly qualifying them as minors entitled to this provision.

Relaxation in Exceptional Cases: The proviso to Rule 10(3) explicitly permits the state government to relax the time limit in exceptional cases where strict adherence would cause financial hardship to the family. The family's prolonged financial distress, the mother's deteriorating health, and the elder brother's death while his application was pending constitute exceptional circumstances justifying relaxation of the time limit.

16. Adverting to the reasons for delay in filing the application—approximately three and a half years after the elder brother attained majority in 2008—was not



intentional. The family resides in a remote tribal area, lacked awareness of the precise procedural requirements, and was not well-versed with the 90-day time limit post-majority. This ignorance is reasonable given their socio-economic background and limited access to information. In any case, even the application of elder brother was deemingly rejected posthumously.

16.1. The family, with reasonable expectation, waited for Kamlesh Kumar to complete his education (an ITI course) before applying in 2012, believing this would strengthen his eligibility. This delay reflects a practical approach rather than negligence, as education is a legitimate step toward securing employment. In *Smt. Maya L. Dinghrani Vs. U.C.O. Bank* [2002 (2) RLR 74], this court held that employers have a duty to inform dependents of their rights under compassionate appointment schemes, especially when dependents are minors or unaware of procedural requirements. The court further ruled that applications from minors, filed after attaining majority, should not be rejected solely on grounds of delay if the employer failed to provide such information.

16.2. There is no material to suggest that the Nigam informed Smt. Anshu or her sons about the specific time limits or the need to apply within 90 days of attaining majority. Given the mother's illiteracy and the family's remote location, the Nigam's failure to communicate these requirements shifts the burden in favor of condonation of the delay.



17 The objective of providing relief to the family does not necessarily get extinguished merely due to a delay. If the family remained in distress throughout the period, the need for amelioration persists even harder, and the state has a duty to ensure justice rather than penalize procedural delays.

17.1. After Kamlesh Kumar's death in 2015, the petitioner promptly submitted his representation on July 6, 2015, with diligence once he became the eligible dependent.

18. I am of the view that exceptional Circumstances exist warranting relief, given the compounded family tragedy of two bread winners. The death of the elder brother in 2015, while his application was still pending, and the mother's subsequent physical and mental decline (evidenced by medical records tendered during the hearing) exacerbate the family's plight. With the mother unable to work and the family pension inadequate—especially given additional medical expenses—the petitioner's appointment is critical to the family's survival.

19. The Nigam's rejection letter (Annex.R/6, dated February 15, 2016) primarily hinges on the delay in Kamlesh Kumar's application (filed in 2012, over three years after he turned 18 in 2008) and extends this rationale to dismiss the petitioner's application. However, this approach overlooks the petitioner's independent eligibility as the next surviving dependent after his brother's death. The Nigam did not evaluate the petitioner's application



afresh, despite the misfortune and further family calamity following Kamlesh Kumar's death. The petitioner's prompt representation in 2015 ought to have been considered on its own merits, and not a blanket rejection based on his brother's case.

20. Learned counsel for the respondents cites Punjab State Power Corporation Ltd. Vs. Nirval Singh to lay stress on the time limits. However, in Nirval Singh, the delay was seven years, and the policy had changed during the interim, rendering the applicant ineligible under the new rules. Here, the 1996 Rules remain applicable without substantive changes affecting eligibility. Likewise, in Tinku Vs. State of Haryana; there is once again, no quibble on the proposition to uphold time limits, however, it has to be seen fact-specifically. The exceptional circumstances here—tribal residence, ignorance of rules, the elder brother's death, and the mother's health—differentiate this case, justifying benevolent outlook under the proviso to Rule 10(3).

21. Accordingly, invoking the proviso of Rule 10 ibid, the petitioner's delay in approaching to seek compassionate appointment is condoned. The matter is remitted back to the competent authority of the respondents, who shall decide the case of the petitioner on merit without being influenced by the delay caused in filing the application and in accordance with the applicable rules and policy at the time of death of the petitioner's father.



22. Needful be done within a period of two months upon approaching the petitioner with web-print of the instant order.

23. The writ petition stands disposed of accordingly.

24. All pending application (s), if any, shall also stand disposed of.

(ARUN MONGA),J

115-SP/skm/-

Whether fit for reporting : Yes / No