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

*Decided on 25.02.2025*

+ W.P.(C) 2372/2025 & CM APPLs. 11249/2025, 11250/2025

YASHVARDHAN

.....Petitioner

Through: Dr. Rohit Samhotra, Advocate.

versus

UNION OF INDIA & ANR.

.....Respondents

Through: Mr. S. Rajappa, Mr. R. Gowrishankar, Ms. G. Dhivyasri, Advocates for R-2/National Bal Bhawan.

**CORAM:**

**HON'BLE MR. JUSTICE PRATEEK JALAN**

**PRATEEK JALAN, J (ORAL):**

1. The petitioner has filed this petition under Article 226 of the Constitution, seeking compassionate appointment in the service of respondent No. 2 – National Bal Bhawan [“NBB”], where his late father served as a Junior Sports Instructor (Judo).
2. The petitioner’s father was in the service of NBB for 27 years, and died on 21.05.2021 at the age of 57. The death certificate records Bilateral Severe Covid Pneumonia as the cause of death.
3. The family of the deceased consisted of his wife – Smt. Anupama and two sons, of whom the petitioner is the younger.
4. The petitioner’s mother made a representation dated 20.07.2021 to the respondent, seeking employment of the petitioner on compassionate



grounds. She was requested to submit a proforma in terms of the Scheme for Compassionate Appointment [“Scheme”]. A copy of the proforma has been placed on record on 23.11.2021, which shows that the petitioner’s mother declared only two dependants of the deceased, being herself and the petitioner herein. The form makes no mention of the petitioner’s brother.

5. In the form, the assets left by the deceased have been enumerated at ₹49,64,600/-, including Death-cum-Retirement Gratuity [“DCR Gratuity”], General Provident Fund [“GPF”] balance, and leave encashment. In addition, it is mentioned that the family receives a family pension of ₹36,416/- per month.

6. A detailed representation was also filed on 16.02.2023 by the petitioner’s mother, stating that she was indigent and that she had received information under the Right to Information Act, 2005 [“RTI”], that her application was still under consideration. She then filed W.P.(C) 12693/2023 before this Court, but was permitted to withdraw the writ petition on 26.09.2023, with liberty to file afresh. The petitioner thereafter made a representation on 07.11.2023 on similar lines as the earlier representation made by his mother. A second writ petition was instituted [W.P.(C) 16721/2023], this time at the instance of the petitioner herein. The said petition was disposed of on 22.12.2023, with a direction upon the petitioner to file a detailed representation for consideration of the respondents. The respondents were directed to pass a reasoned order, in accordance with law, expeditiously, and preferably within six weeks. The petitioner made such a representation on 24.01.2024, which has been disposed of by the impugned order dated 08.08.2024.



7. I have heard Dr. Rohit Samhotra, learned counsel for the petitioner, and Mr. S. Rajappa, learned counsel for respondent No. 2- NBB.

8. The petitioner relies upon the Scheme, in respect of which consolidated instructions have been issued by the Department of Personnel and Training, Government of India [“DoPT”] on 16.01.2013.

The objective of the Scheme, as stated therein, is as follows:

*“The object of the Scheme is to grant appointment on compassionate grounds to a dependent family member of a Government servant dying in harness or who is retired on medical grounds, thereby leaving his family in penury and without any means of livelihood, to relieve the family of the Government servant concerned from financial destitution and to help it get over the emergency.”*

9. By way of the impugned order, the petitioner’s application has been rejected on the ground that the family does not fulfil the basic objective of the scheme. The amounts mentioned in the form submitted by the petitioner’s mother with regard to DCR Gratuity, leave encashment, and GPF have been noted, which amount to over ₹48 lakhs. Additionally, an amount of approximately ₹2 lakhs was received by the family by way of insurance, and they are also in receipt of family pension, calculated at ₹42,675/- per month.

10. Having regard to these resources, and the number of members in the family, being the wife and two major sons of the deceased, the application was found not to fall within the requirements for compassionate appointment.

11. It may be noted that, in the impugned order dated 08.08.2024, it is mentioned that the family had informed that the petitioner’s elder brother was working in Washington D.C., United States of America. Dr. Samhotra states, upon instructions, that the petitioner’s brother has since



returned to India a few months ago and is unemployed. However, Mr. Rajappa points out the following averment in the writ petition:

*“O. Because the petitioner's brother, Rishab Singh is working independently in the US, who lives separately and does not provide any financial support whatsoever to the family and this was the reason the petitioner had not shown his brother dependant family member in Column V of the proforma for compassionate appointment.”*

It is evident that the petition, which was affirmed only five days ago, i.e. 20.02.2025, does not reflect the position, as submitted orally, and, in fact is inconsistent with the submission now made. It may also be noted that the petitioner's mother, in the proforma filed by her, only showed herself and the petitioner as the dependant members of the deceased's family. Be that as it may, the position, according to Dr. Samhotra, is that there is a family of three rather than two, dependent the same resources.

12. Even on that basis, I find no arbitrariness or unreasonableness on the part of the respondent. The fact that an amount of approximately ₹50 lakhs is available to the family by way of corpus, in addition to monthly income of over ₹40,000/-, is not factually disputed. The conclusion of the respondent that, in these circumstances, the family does not suffer from penury or impending destitution, cannot be faulted.

13. Dr. Samhotra drew my attention to Clause 18 (c) of the instructions dated 16.01.2013, which reads as follows:

*“(c) The Scheme of compassionate appointments was conceived as far back as 1958. Since then a number of welfare measures have been introduced by the Government which have made a significant difference in the financial position of the families of the Government servants dying in harness/retired on medical grounds. An application for compassionate appointment should, however, not be rejected merely on the ground that the family of the Government servant has received the benefits under the various welfare schemes. While considering a request for appointment on compassionate ground a balanced and objective assessment of the financial condition of the*



*family has to be made taking into account its assets and liabilities (including the benefits received under the various welfare schemes mentioned above) and all other relevant factors such as the presence of an earning member, size of the family, ages of the children and the essential needs of the family, etc.”*

14. Learned counsel submitted that the amounts received by the family upon the demise of the petitioner's father, ought not to have been taken into account. The submission, is, in my view, misconceived. Clause 18 (c) only states that compassionate appointment ought not to be denied merely on the ground that the family has received benefits under welfare schemes. A balanced and objective assessment of the financial condition of the family is mandated, taking into account its assets and liabilities. This expressly includes the benefits received under the various welfare schemes mentioned above, along with other relevant factors. Even assuming that the benefits, which have rightfully been claimed and given to the family of the deceased upon his death, fall within the purview of “welfare schemes”, the circular does not require those benefits to be excluded from consideration. It mandates consideration of all assets and liabilities as part of a proper and balanced assessment of the family's needs.

15. Dr. Samhotra lastly referred to a communication of the respondent dated 13.07.2022, in response to the application filed by the petitioner under the RTI Act, which reveals that five employees are working in NBB on compassionate appointment basis. He submitted that this, *per se*, shows discrimination. It may first be noted that there is no information on record as to the identity of their employees, their status, or the financial position of their families. A claim for discrimination requires, at the very least, pleading that those employees were in a position similar to that of



the petitioner herein. The matter has already travelled to this Court twice; the impugned order has been passed on the third representation of the petitioner and his mother. By the last order dated 22.12.2023, the petitioner was directed to make a detailed representation. The representation dated 24.01.2024 contains no allegation with regard to the five other employees and the writ petition is similarly bereft of pleadings in this regard. I, therefore, do not find any material on record to support the conclusion that the petitioner has been discriminated against.

16. It is now well settled that a scheme for compassionate appointment is an exception to the general rules that recruitment of public servants should be undertaken on a competitive and transparent basis, open to all. The exception arises only in a limited class of circumstances where a government servant dies in harness, and the appointment is required to relieve his family of consequent penury and destitution. Such appointment can be granted only under a scheme or policy formulated for this purpose, and in strict conformity with the conditions stipulated therein.

17. For the aforesaid reasons, I do not find any arbitrariness or unreasonableness in the view taken by the respondents. I am therefore unable to come to the aid of the petitioner in this writ petition.

18. The writ petition, alongwith pending applications, is accordingly dismissed.

**PRATEEK JALAN, J**

**FEBRUARY 25, 2025**

*“Bhupi”/SD/*