



NEUTRAL CITATION NO. 2026:MPHC-IND:12622

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W.P. No. 19107/2019

**IN THE HIGH COURT OF MADHYA
PRADESH
AT INDORE
BEFORE**

HON'BLE SHRI JUSTICE JAI KUMAR PILLAI

WRIT PETITION No. 19107 of 2019

BHERUGIR

Versus

***THE STATE OF MADHYA PRADESH THROUGH
VETERINARY DEPARTMENT AND OTHERS***

Appearance:

Shri Shantanu Sharma- Advocate with Shri Divyansh Luniya

- Advocate for the petitioner.

Shri Ayushyaman Choudhary - Government Advocate for the
respondents State.

Reserved on : 17/04/2026

Post on : 04/05/2026

ORDER



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1. This writ petition under Article 226 of the Constitution of India is preferred by the petitioner challenging the communication dated 02/06/2018, the termination order dated 22/06/2018, and the subsequent communications dated 18/04/2019. By these impugned orders, the respondents have declared the petitioner unfit for government service and terminated his compassionate appointment. The petitioner seeks a writ of mandamus to quash the said orders and direct the respondents to reinstate him on the post of Peon with all consequential benefits.

Facts of the Case

2. The petitioner's father, working as a Peon with the respondent Department, expired in harness on 29/09/2017. Following the state government's policy, the petitioner applied for compassionate appointment. The Joint Director, Veterinary Services, appointed the petitioner as a Peon on a probationary basis vide order dated 15/11/2017, subject to the submission of necessary information in the requisite format.

3. On 05/12/2017, the petitioner submitted the verification form to the Superintendent of Police, Mandsaur, answering "No" to the queries regarding pending criminal cases. However, a criminal complaint under Section 498-A/34 of the IPC (Crime No. 54/2014)



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had been lodged against him by his first wife due to marital discord.

4. The parties reached a compromise, and the petitioner was acquitted of all charges vide order dated 20/03/2018. Despite the acquittal, the Inspector General of Police issued a communication dated 02/06/2018 declaring the petitioner unfit for service due to the non-disclosure of the criminal case. Acting upon this, the respondents terminated the petitioner's services on 22/06/2018.

5. The petitioner represented against the termination on 29/06/2018, citing his acquittal. The Deputy Director sought guidance from the Inspector General of Police on 02/07/2018 and sent a reminder on 07/09/2018. However, the Inspector General, vide letter dated 18/04/2019, maintained the earlier decision, leading to the filing of the present writ petition.

Contentions of the Petitioner

6. The petitioner contends that the termination order is bad in law as it was issued without affording any show-cause notice, thereby violating the principles of natural justice. Furthermore, on the date the termination order was passed (22/06/2018), the petitioner already stood acquitted of all charges vide the judgment dated 20/03/2018, a fact the authorities failed to consider.



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7. It is submitted that the non-disclosure in the verification form was not malafide or intended to misrepresent. The petitioner not being well-versed in law failed to correctly understand the confusing wording of the questions. The criminal case was purely a matrimonial dispute which does not involve moral turpitude.

8. The petitioner further emphasizes that the post in question is a Class-IV position (Peon) in a non-disciplined force. Therefore, the rigorous standards expected of a person serving in a uniformed force are not applicable. The employer ought to have exercised discretion and taken a lenient view considering the clean acquittal and the hardship faced by the deceased employee's family.

Contentions of the Respondents

9. The respondents primarily argue that the petitioner deliberately concealed material information in Clause 2 of his verification form by falsely stating that no criminal case was pending against him. The suppression of Crime No. 54/2014 under Section 498-A/34 IPC disentitles him from seeking or continuing in any public employment.

10. The appointment order dated 15/11/2017 contained a specific condition stipulating that police verification would be conducted. It



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explicitly provided that if an adverse report is received, the appointment would be cancelled without assigning any reason. The respondents acted strictly in accordance with this condition upon receiving the adverse report from the police authorities.

11. Based on the police verification report, the Inspector General of Police, Bhopal, rightly concluded that the petitioner was unfit for government service. The subsequent representations were duly considered, and the Inspector General reiterated the unfitness through the communication dated 18/04/2019. Therefore, the cancellation of the appointment is legal, just, and proper.

Analysis and Conclusion

12. Having heard the pleadings and perused the record, this Court exercises its jurisdiction under Article 226 to assess whether the termination of the petitioner's compassionate appointment is legally sustainable. It is a settled principle that compassionate appointment is an exception to the general rule of recruitment, intended to mitigate immediate financial hardship upon the death of a breadwinner.

13. The Hon'ble Supreme Court in **The State of West Bengal versus Debabrata Tiwari & Ors. (Civil Appeal Nos. 8842–8855**



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of 2022), decided on 03/03/2023, has authoritatively held that compassionate appointment aims to redeem the family in distress and should be provided immediately. The strict rules and rigorous standards applicable to fresh, regular appointments do not apply with the same inflexibility to compassionate appointments. The Apex Court has observed verbatim as follows:-

7.1. It may be apposite to refer to the following decisions of this Court, on the rationale behind a policy or scheme for compassionate appointment and the considerations that ought to guide determination of claims for compassionate appointment.

*i. **In Sushma Gosain vs. Union of India, (1989) 4 SCC 468**, this Court observed that in all claims for appointment on compassionate grounds, there should not be any delay in appointment. That the purpose of providing appointment on compassionate grounds is to mitigate the hardship caused due to the death of the bread earner in the family. Such appointment should, therefore, be provided immediately to redeem the family in distress.*

*ii. **In Umesh Kumar Nagpal vs. State of Haryana, (1994) 4 SCC 138**, this Court observed that the object of granting compassionate employment is to enable the family of a deceased government employee to tide over the sudden crisis by providing gainful employment to one of the dependants of the deceased who is eligible*



for such employment. That mere death of an employee in harness does not entitle his family to such source of livelihood; the Government or the public authority concerned has to examine the financial condition of the family of the deceased and it is only if it is satisfied that, but for the provision of employment, the family will not be able to meet the crisis, that a job is to be offered to the eligible member of the family, provided a scheme or rules provide for the same. This Court further clarified in the said case that compassionate appointment is not a vested right which can be exercised at any time after the death of a government servant. That the object being to enable the family to get over the financial crisis which it faces at the time of the death of the sole breadwinner, compassionate employment cannot be claimed and offered after lapse of considerable amount of time and after the crisis is overcome.

*iii. **In Haryana State Electricity Board vs. Hakim Singh, (1997) 8 SCC 85,** (“Hakim Singh”) this Court placed much emphasis on the need for immediacy in the manner in which claims for compassionate appointment are made by the dependants and decided by the concerned authority. This Court cautioned that it should not be forgotten that the object of compassionate appointment is to give succour to the family to tide over the sudden financial crisis that has befallen the dependants on account of the untimely demise of its sole earning member. Therefore, this Court held that it would not be justified in directing appointment for the claimants therein on*



compassionate grounds, fourteen years after the death of the government employee. That such a direction would amount to treating a claim for compassionate appointment as though it were a matter of inheritance based on a line of succession.

*iv. **This Court in State of Haryana vs. Ankur Gupta, AIR 2003 SC 3797** held that in order for a claim for compassionate appointment to be considered reasonable and permissible, it must be shown that a sudden crisis occurred in the family of the deceased as a result of death of an employee who had served the State and died while in service. It was further observed that appointment on compassionate grounds cannot be claimed as a matter of right and cannot be made available to all types of posts irrespective of the nature of service rendered by the deceased employee.*

*v. There is a consistent line of authority of this Court on the principle that appointment on compassionate grounds is given only for meeting the immediate unexpected hardship which is faced by the family by reason of the death of the bread earner vide **Jagdish Prasad vs. State of Bihar, (1996) 1 SCC 301**. When an appointment is made on compassionate grounds, it should be kept confined only to the purpose it seeks to achieve, the idea being not to provide for endless compassion, vide *I.G. (Karmik) vs. Prahalad Mani Tripathi, (2007) 6 SCC 162*. In the same vein is the decision of this Court in *Mumtaz Yunus Mulani vs. State of Maharashtra, (2008) 11 SCC 384*, wherein it was declared that appointment on compassionate*



grounds is not a source of recruitment, but a means to enable the family of the deceased to get over a sudden financial crisis.

*vi. **In State of Jammu and Kashmir vs. Sajad Ahmed Mir, AIR 2006 SC 2743**, the facts before this Court were that the government employee (father of the applicant therein) died in March, 1987. The application was made by the applicant after four and half years in September, 1991 which was rejected in March, 1996. The writ petition was filed in June, 1999 which was dismissed by the learned Single Judge in July, 2000. When the Division Bench decided the matter, more than fifteen years had passed from the date of death of the father of the applicant. This Court remarked that the said facts were relevant and material as they would demonstrate that the family survived in spite of death of the employee. Therefore, this Court held that granting compassionate appointment after a lapse of a considerable amount of time after the death of the government employee, would not be in furtherance of the object of a scheme for compassionate appointment.*

*vii. **In Shashi Kumar**, this Court speaking through Dr. D.Y. Chandrachud, J. (as His Lordship then was) observed that compassionate appointment is an exception to the general rule that appointment to any public post in the service of the State has to be made on the basis of principles which accord with Articles 14 and 16 of the Constitution. That the basis of the policy is that it recognizes that 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. That it is the immediacy of the need which furnishes the basis for the State to allow the benefit of compassionate appointment. The pertinent observations of this Court have been extracted as under:

“41. Insofar as the individual facts pertaining to the Respondent are concerned, it has emerged from the record that the Writ Petition before the High Court was instituted on 11 May 2015. The application for compassionate appointment was submitted on 8 May 2007. On 15 January 2008 the Additional Secretary had required that the amount realized by way of pension be included in the income statement of the family. The Respondent waited thereafter for a period in excess of seven years to move a petition Under Article 226 of the Constitution. In Umesh Kumar Nagpal (supra), this Court has emphasized that the basis of a scheme of compassionate appointment lies in the need of providing immediate assistance to the family of the deceased employee. This sense of immediacy is evidently lost by the delay on the part of the dependant in seeking compassionate appointment.”

7.2. On consideration of the aforesaid decisions of this Court, the following principles emerge:

i. That a provision for compassionate appointment makes a departure from the general provisions providing for appointment to a post by following a particular procedure of recruitment. Since such a



provision enables appointment being made without following the said procedure, it is in the nature of an exception to the general provisions and must be resorted to only in order to achieve the stated objectives, i.e., to enable the family of the deceased to get over the sudden financial crisis.

ii. Appointment on compassionate grounds is not a source of recruitment. The reason for making such a benevolent scheme by the State or the public sector undertaking is to see that the dependants of the deceased are not deprived of the means of livelihood. It only enables the family of the deceased to get over the sudden financial crisis.

iii. Compassionate appointment is not a vested right which can be exercised at any time in future. Compassionate employment cannot be claimed or offered after a lapse of time and after the crisis is over.

iv. That compassionate appointment should be provided immediately to redeem the family in distress. It is improper to keep such a case pending for years. v. In determining as to whether the family is in financial crisis, all relevant aspects must be borne in mind including the income of the family, its liabilities, the terminal benefits if any, received by the family, the age, dependency and marital status of its members, together with the income from any other source.”

14. A perusal of the prevailing compassionate appointment policy reveals that there is no absolute debarment for the mere non-



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disclosure of a criminal background. The relevant provision is Clause 13.3, which reads as:

“नियुक्ति के पूर्व चिकित्सीय परीक्षण नियमानुसार कराया जावेगा परन्तु दिवंगत शासकीय सेवक की धर्मपत्नी को अनुकंपा नियुक्ति देने के मामलों में नियुक्ति के पूर्व चरित्र सत्यापन (पुलिस वेरिफिकेशन) कराने की शर्त नहीं रहेगी।

किन्तु पत्नी के अलावा अन्य आश्रित सदस्य को चरित्र सत्यापन की प्रतयाशा में अनुकंपा नियुक्ति इस शर्त के साथ दी जावेगी कि नियुक्ति के पश्चात् यदि यह पाया जाता है कि संबंधित व्यक्ति शासकीय सेवा में रखे जाने के योग्य नहीं है, तो उसे दी गई अनुकंपा नियुक्ति समाप्त की जा सकेगी।“

15. The mandate of Clause 13.3 requires that a dependent be granted appointment in anticipation of character verification. Termination is permissible only if, post-appointment, the person is found not fit for government service. This finding of unfitness necessitates the subjective satisfaction of the competent authority, which must be based on well-reasoned grounds, not merely on an automated reaction to non-disclosure.

16. In the present case, the criminal offense registered against the petitioner was petty in nature, arising entirely out of a matrimonial dispute with his first wife. The offence under Section 498-A of the



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IPC in this context does not involve moral turpitude. Furthermore, the matter was compromised, leading to an honourable acquittal prior to the issuance of the termination order.

17. The respondents failed to objectively assess whether a resolved matrimonial dispute rendered the petitioner genuinely unfit for a Class-IV post. The termination order lacks the well-reasoned satisfaction required under the policy. Consequently, the impugned communication dated 02/06/2018, the termination order dated 22/06/2018, and the communications dated 18/04/2019 are arbitrary and bad in law.

18. Resultantly, the writ petition is **allowed**. The impugned orders dated 02/06/2018, 22/06/2018, and 18/04/2019 are hereby **quashed and set aside**. The respondents are directed to reconsider the petitioner's application for compassionate appointment in light of the observations made hereinabove.

19. The said exercise shall be completed within a period of **60 days** from the date of receipt of a certified copy of this order.

Pending applications, if any, shall be **disposed of** accordingly.



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No order as to costs.

(Jai Kumar Pillai)
Judge

Rashmi