HC-KAR

NC: 2025:KHC-K:2972-DB
WP No. 201546 of 2025

IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 10TH DAY OF JUNE, 2025

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MRS. JUSTICE K S HEMALEKHA

WRIT PETITION NO.201546 OF 2025 (S-CAT)

BETWEEN:

MUTTU K. BAJANTRI,
AGE: 22 YEARS,
OCC: NIL,
S/O LATE KUBERAPPA BAJANTRI,
EX GDS ABPM,
ALMATTI RS BO,
RESIDING AT: NEAR OLD BUS STOP,
NIDAGUNDI, VIJAYAPURA DISTRICT-586 213.

...PETITIONER

(BY SRI. BAPUGOUDA SIDDAPPA, ADVOCATE)

AND:

Digitally signed by BASALINGAPPA SHIVARAJ DHUTTARGAON
Location: HIGH COURT OF KARNATAKA

1. THE UNION OF INDIA,
   THROUGH SECRETARY,
   DEPARTMENT OF POST,
   DAK BHAVAN,
   NEW DELHI-110 001.

2. THE CHIEF POST MASTER GENERAL,
   KARNATAKA CIRCLE,
   BANGALORE – 560 001.

3. THE POST MASTER GENERAL,
   NORTH KARNATAKA REGION,
   DHARWAD - 580 001.

4. THE SUPERINTENDENT OF POST OFFICES,
VIJAYAPURA DIVISION,
VIJAYAPURA – 586 104.

…RESPONDENTS

(BY SRI. SUDHIRSINGH R. VIJAPUR,DSGI,)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE A WRIT OF CERTIORARI QUASHING THE ANNEXURE 'B' VIDE ORDER DATED 24.02.2025 PASSED IN APPLICATION NO.170/00429/2024 PASSED BY THE CENTRAL ADMINISTRATIVE TRIBUNAL AT BANGALORE, IN THE INTEREST OF JUSTICE AND EQUITY.

THIS PETITION COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE MOHAMMAD NAWAZ
AND
HON'BLE Mrs JUSTICE K S HEMALEKHA

ORAL ORDER

(PER: HON'BLE MR. JUSTICE K S HEMALEKHA)

The question that falls for consideration in the present writ petition is: *whether the petitioner/applicant, the son of deceased Kuberappa H. Bhajantri who died in harness on 24.01.2016, is entitled for compassionate appointment under the Gramin Dak Sevaks (Compassionate Engagement) Scheme, 2023*?

2. The petitioner seeks to challenge the order passed by the Central Administrative Tribunal, Bangalore Bench, Bengaluru (for short, '*the Tribunal*'), whereby the endorsement rejecting the requisition of the petitioner for 'compassionate appointment' was challenged and same came to be confirmed by the Tribunal.

3. The petitioner is the son of late Kuberappa H. Bajantri who was serving as GDS, mail deliver under the Postal Department and he died in harness on 24.01.2016 leaving behind his wife, two daughters and one son (applicant). The petitioner was born on 21.07.2003, and was a minor at the time of death of his father. His elder sister namely, Kavita was born on 08.03.1996 and her educational qualification was 8th standard, second sister namely, Chandrika was born on 01.07.2002, and she completed PUC. The applicant attained majority on 21.07.2021 and filed an application for compassionate appointment on 10.08.2023.

4. The application was rejected by the Superintendent of Post Offices, Vijayapura Division, Vijayapura on the ground that the application was beyond two years limit as stipulated under Rules 10 and 11 of the Gramin Dak Sevaks (Compassionate Engagement) Scheme, 2023 (for short, '*the GDS Scheme, 2023*') and also the request for reconsideration submitted by the mother of the applicant was also rejected.

5. The challenge was made by the petitioner/ applicant to the endorsement issued by the Superintendent of Post Offices before the Tribunal, which upheld the rejection holding that the application was time barred and the petitioner had no enforceable right for appointment under the GDS Scheme,2023.

6. Learned counsel for the petitioner would submit that as per Para-10 of the Department of Personnel and Training Guidelines (for short, '*DoPT*') (updated on 02.08.2022), belated applications for compassionate

appointment must be considered at the level of Secretary of the concerned Ministry, hence the rejection of the application by a subordinate authority is improper, and the DoPT Circular should govern the decision making process. It is contended that the petitioner/applicant was born on 21.07.2003, he was 12 years old at the time of death of his father and he attained majority on 21.07.2021 and he has filed the application for compassionate appointment on 10.08.2023 well within reasonable time after attaining majority which aspect is totally overlooked by the Tribunal.

7. *Per contra*, learned counsel appearing for the Union justifying the order of the Tribunal and the endorsement issued by the department, inviting the attention of the Court to Rules 10 and 11 of the GDS Scheme, 2023 submits that the said Rules protect the children or other dependents who were not eligible at the time of death. They are allowed to apply within two years from the date they become eligible and any request made

after two year window period is considered a belated request and the department will not take cognizance of it.

8. It is submitted that as per Rule 10, in case there is an eligible family member, he or she shall apply within two years from the date of death and since the second daughter had attained majority on 01.07.2020, there was at least one eligible family member. Therefore, as per Rule 10, the two year deadline began on 01.07.2020 and she did not apply for compassionate appointment. Thus, the application filed on 10.08.2023 by the applicant is time barred. It is also contended that the GDS Scheme, 2023 is a complete and self contained Scheme governing GDS appointments and when a special scheme exists for a specific category of employees, it excludes the applicability of General Instructions such as DoPT Circular and hence the General Instructions at Para-10 of the DoPT Circular are not applicable.

9. We have carefully considered the rival contentions of the parties and perused the entire material placed on record.

10. The GDS Scheme, 2023, issued by the Department of Posts is a special, self contained Scheme that governs the process of compassionate appointment for GDS Employees. The DoPT Guidelines, including the Circular dated 02.08.2022 are general in nature and apply only when no special scheme is in force. The legal principle "*specialia generalibus derogant"* which means special law overrides the general law. Bearing in mind the legal principle, we have no hesitation to hold that the GDS Scheme, 2023 issued by the Department of Posts, governs all aspects of compassionate engagement for GDS dependents. It is a self contained scheme and overrides General Instructions such as those issued by the DoPT.

11. Having held that the GDS Scheme, 2023 applies to the dependents of deceased GDS, we have to look into the rules which provides for compassionate appointment.

12. For ready reference, Rule 10 of the GDS Scheme, 2023 is extracted as under:

> "***10. <u>Time limits for eligible dependent of deceased GDS for submission of application</u>:-***
>
> *(i) In case there is eligible candidate in family and wants to apply, he/she has to submit application in all respect to IP/ASP of Sub Division/Unit at the earliest possible opportunity but not later than two years from the date of death of the GDS.*
>
> *(ii) In case there is no one eligible family member in the family, such member can apply for compassionate engagement within two years of attaining the requisite eligibility criteria."*

13. Rule 10 of the GDS Scheme, 2023 permits filing of the application within two years from the date of death of the GDS or in case no one eligible member in the family, within two years of attaining the requisite eligibility criteria (attaining majority) whichever is applicable.

14. Rule 11 of GDS Scheme,2023 reads as under;

> *"11. **Belated requests**: Any request for engagement on compassionate ground received after two years form the date of death of the GDS or two years of attaining the requisite eligibility criteria (in case non-availability of eligible dependent at the time of death) will be considered as belated request of which no cognizance will be taken by the Department."*
>
> *(emphasis supplied)*

15. Rule 11 clearly states that any request made beyond period of two years from the date of death of GDS or two years of attaining the requisite eligibility criteria (in case non-availability of eligible dependent at the time of death) is belated and shall not be considered. There existed an eligible family member earlier *i.e.,* the second daughter namely, Chandrika who was born on 01.07.2002. She became eligible for compassionate appointment on 01.07.2020 after attaining majority and passing SSLC, she did not apply although she was eligible much earlier than the petitioner. The petitioner attained majority on 21.07.2021 and an application for compassionate appointment was filed on 10.08.2023 and which is belated.

The Apex Court in the case of ***Jagdish Prasad Vs. State Bihar and another***[1] and ***Umesh Kumar Nagpal Vs. State of Haryana and others***[2] has held that compassionate appointment is meant to immediate relief, not to be kept in reserve for a younger sibling. The Apex Court in the case of ***State of Jammu and Kashmir Vs. Sajad Ahmed Mir***[3] observed that once it is proved in spite of death of bread earner, the family survived and substantial period is over, there is no necessity to "good-bye" to the normal rule of appointment and to show favour to one at the cost of interests of several others ignoring the mandate of Article 14 of the Constitution of India. With a situation placed in the present facts, the compassionate appointment is not a matter of right but a discretionary and exception based on mechanism and there is no vested right to seek appointment once statutory limit under the Scheme has lapsed. The Tribunal rightly held that the application

---

[1] *(1996) 1 SCC 301*
[2] *(1994) 4 SCC 138*
[3] *(2006)5 SCC 766*

was belated and not maintainable under the GDS Scheme,2023. The very purpose of compassionate appointment is not addressed and satisfied. The scope of compassionate relief cannot be overstretched to such an extent and put forward a claim as though it is a line of succession by virtue of a right of inheritance which was observed by the Apex Court while dealing with the case of minors seeking compassionate appointment in the case of ***Haryana Electricity Board and another Vs. Hakim Sing***[4].

16. In light of the well settled proposition of law and reasons stated above, we find no grounds to interfere with the order passed by the Tribunal. Accordingly, we pass the following:

ORDER

i) The writ petition is ***dismissed***.

[4] *(1997) 8 SCC 85*

ii) The order dated 24.02.2025 passed by the Central Administrative Tribunal, Bangalore Bench, Bengaluru in O.A.No.170/00429/2024 stands ***confirmed***.

Sd/-
(MOHAMMAD NAWAZ)
JUDGE

Sd/-
(K S HEMALEKHA)
JUDGE

BL
List No.: 1 Sl No.: 14
CT:NI