



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

S.B. Civil Writ Petition No. 725/2025

Sagar Kumar S/o Late Shri Hosiyar Singh, Aged About 41 Years,
R/o Ward No. 29, Nohar, Near Idbi Bank, Hanumangarh, District
Hanumangarh, Rajasthan.

----Petitioner

Versus

1. State Of Rajasthan, Through The Secretary, Public Works Department, Government Of Rajasthan, Secretariat, Jaipur.
2. The Chief Engineer, Public Works Department, Jaipur, Rajasthan.
3. The Additional Chief Engineer, Public Works Department, Zone Bikaner, Jaipur, Rajasthan.
4. The Superintendent Engineer, Public Works Department, Hanumangarh, Rajasthan.
5. The Executive Engineer, Public Works Department, Circle Hanumangarh, District Hanumangarh, Rajasthan.

----Respondents

For Petitioner(s)	:	Mr. Kailash Jangid, Mr. Mohan Singh Shekhawat, Mr. Kunal Singh Rathore Mr. Abhinav Pareek
For Respondent(s)	:	Ms. Meenal Singhvi for Mr. Rajesh Panwar, Sr. Adv. & AAG

HON'BLE MR. JUSTICE VINIT KUMAR MATHUR
REPORTABLE : Order
08/07/2025

Heard learned counsel for the parties.

Briefly noted the facts in the writ petition are that the petitioner's father was serving in the Indian Armed Forces as Hawaldar and attained martyrdom during *Operation Pawan*. Pursuant to a notification issued by the respondent-State inviting applications for compassionate appointments to the families of martyrs of anti-terrorism operations, the petitioner applied for



such appointment. After due verification of the petitioner's qualifications and family details, he was appointed on compassionate grounds to the post of Lower Division Clerk (LDC) and was posted in the Office of the Executive Engineer, PWD, Division Nohar, District Hanumangarh. He joined the post on 25.02.2010 and after satisfactorily completing two years of his services, he was confirmed on the said post on 02.03.2012. The petitioner duly submitted all family details including information of his wife and three children for the purpose of his service records and State Insurance purposes. In the year 2019, a complaint was made to the respondent department raising allegations regarding the petitioner having three children at the time of appointment. After receiving the complaint, the respondent issued communications dated 09.07.2020 and 13.04.2022. The petitioner replied to these communications by filing detailed replies clearly stating therein that there was no concealment on the part of the petitioner as the entire family details were duly furnished by him at the time of his appointment. Dissatisfied with the replies filed by the petitioner, he was issued a charge-sheet on 13.05.2024. To this charge-sheet, the petitioner filed a detailed reply on 24.05.2024, clarifying that at the time of his appointment, he had disclosed his marital status, and the details of his children were also furnished to the respondent Department in the year 2012. However, dissatisfied with the reply filed by the petitioner, his services were terminated vide order dated 26.12.2024. Hence, the present writ petition has been filed.

Learned counsel for the petitioner submits that the petitioner was granted appointment as a son of Martyrs on the application



preferred by him in accordance with the applicable Rules seeking compassionate appointment. Learned counsel submits that the entire factual details were submitted to the respondent Department and the respondent Department, after due consideration of the same, has issued the appointment order in favour of the petitioner. Learned counsel further submits that the appointment was offered to the petitioner after the due verification of the entire documents submitted by him along with the application. He submits that even on a bare perusal of the charge framed against the petitioner in the disciplinary enquiry shows that the petitioner has not been charged for suppressing any information while seeking compassionate appointment in the respondent department. Learned counsel submits that even in the enquiry report, the Enquiry Officer has taken note of the fact that the entire details were submitted by the petitioner and no fact was suppressed by him while seeking compassionate appointment. He submits that the Enquiry Officer has taken note of the fact that the Chief Engineer of the respondent Department has imposed all the conditions which were required to be fulfilled by the petitioner for getting the employment/appointment in the respondent Department and in compliance of the same, the petitioner has complied with those conditions before being appointed in the respondent Department. Learned counsel further submits that after having served the department for almost fifteen years, the services of the petitioner were terminated on the ground that he was not eligible at the time of appointment. He submits that the petitioner's services are unblemished and he has served the respondent Department with utmost zeal, dedication and honesty.



He, therefore, prays that the writ petition may be allowed and the order 26.12.2024 may be quashed and set aside.

Per contra, learned counsel for the respondents vehemently opposed the submissions made by learned counsel for the petitioner and submits that the petitioner was appointed in the respondent department dehors the Rules. Learned counsel submits that even as per the Rules of Rajasthan Compassionate Appointment of Dependent of Deceased Government Servant Rules, 1996, the dependent is required to be eligible for appointment to the post and since the petitioner in the first instance was not holding the requisite eligibility condition for appointment, therefore, the appointment made in favour of the petitioner is not sustainable. Learned counsel further submits that as per the recruitment Rules and the amendment made therein from time to time, it was the condition precedent that a person who is having more than two children will not be eligible for appointment in the State Government and, therefore, even as per the Rules of Rajasthan Subordinate Offices Ministerial Service Rules, 1999, the petitioner is disqualified for appointment on account of having more than two children and, therefore, the appointment to the post of Lower Division Clerk in the respondent Department could not have been made. In support of her submissions, learned counsel for the respondent has relied upon a judgment of Division Bench reported in **2020 SCC Online Raj 1179, Ramdev vs. State of Rajasthan through Secretary &Ors.** She, therefore, prays that the writ petition may be dismissed.



I have considered the submissions made at the Bar and gone through the relevant record of the case.

It is not in dispute that the petitioner's father was serving in the Indian Armed Forces and attained martyrdom during *Operation Pawan*, a military operation of significant national importance. Pursuant to a policy decision of the State Government inviting applications for compassionate appointments to the dependents of such martyrs, the petitioner applied and was appointed on the post of Lower Division Clerk after proper verification of his educational qualifications and family background. He joined services on 25.02.2010 and was thereafter confirmed on 02.03.2012 upon satisfactory completion of two years of service. The core question in the present writ petition is whether, in the peculiar facts of this case, the action of the respondents for terminating the petitioner's services—after more than a decade of continuous service—based on a delayed complaint alleging eligibility issues, can be sustained in law or not?

It is trite law that compassionate appointment, though is not a vested right, but is a policy-driven exception to the regular recruitment process. Its primary object is to offer immediate relief and socio-economic support to families, on account of the untimely death of the sole earning member while in government service. The purpose is not to offer long-term employment, but to prevent the family from slipping into financial hardship. This welfare-driven intention must guide the interpretation and implementation of such schemes.



The Hon'ble Supreme Court in **Umesh Kumar Nagpal v. State of Haryana [(1994) 4 SCC 138]** has clearly held that the object of compassionate appointment is to enable the family of the deceased employee to tide over the immediate crisis, and that authorities must deal with such matters not mechanically, but with sensitivity and compassion.

2. As a rule, appointments in the public services should be made strictly on the basis of open invitation of applications and merit. No other mode of appointment or any other consideration is permissible. Neither the Governments nor the public authorities are at liberty to follow any other procedure or relax the qualifications laid down by the rules for the post. However, to this general rule which is to be followed strictly in every case, there are some exceptions carved out in the interests of justice and to meet certain contingencies. One such exception is in favour of the dependants of an employee dying in harness and leaving his family in penury and without any means of livelihood. In such cases, out of pure humanitarian consideration taking into consideration the fact that unless some source of livelihood is provided, the family would not be able to make both ends meet, a provision is made in the rules to provide gainful employment to one of the dependants of the deceased who may be eligible for such employment... The whole object of granting compassionate employment is thus to enable the family to tide over the sudden crisis. The object is not to give a member of such family a post much less a post for post held by the deceased. What is further, 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. The posts in Class-III and IV are the lowest posts in non-manual and manual categories and hence they alone can be offered on compassionate grounds, the object being to relieve the family, of the financial destitution and to help it get over the emergency. The provision of employment in such lowest posts by making an exception to the rule is justifiable and valid since it is not discriminatory. The favorable treatment given to such dependant of



the deceased employee in such posts has a rational nexus with the object sought to be achieved, viz., relief against destitution. No other posts are expected or required to be given by the public authorities for the purpose. It must be remembered in this connection that as against the destitute family of the deceased there are millions of other families which are equally, if not more destitute. The exception to the rule made in favour of the family of the deceased employee is in consideration of the services rendered by him and the legitimate expectations, and the change in the status and affairs, of the family engendered by the erstwhile employments which are suddenly upturned.

The Hon'ble Supreme Court in **Md. Zamil Ahmed**

vs. The State of Bihar and Ors, AIR 2016 SC 2231 has

held as under :-

21. In our considered view, the aforesaid facts would clearly show that it was a conscious decision taken by the State for giving an appointment to the Appellant for the benefit of the family members of the deceased who were facing financial hardship due to sudden demise of their bread earner. **The Appellant being the only close relative of the deceased could be given the appointment in the circumstances prevailing in the family. In our view, it was a right decision taken by the State as a welfare state to help the family of the deceased at the time of need of the family.**

22. In these circumstances, we are of the view that there was no justification on the part of the State to woke up after the lapse of 15 years and terminate the services of the Appellant on such ground. In any case, we are of the view that whether it was a conscious decision of the State to give appointment to the Appellant as we have held above or a case of mistake on the part of the State in giving appointment to the Appellant which now as per the State was contrary to the policy as held by the learned Single Judge, the State by their own conduct having condoned their lapse due to passage of time of 15 years, it was too late on the part of the State to have raised such ground for cancelling the Appellant's appointment and terminating his services. It was more so because the Appellant was not responsible for making any false declaration and nor he suppressed any material fact for securing the appointment. The State was, therefore, not entitled to take advantage of their own mistake if they felt it to be so. The position would have been different if the



Appellant had committed some kind of fraud or manipulation or suppression of material fact for securing the appointment. As mentioned above such was not the case of the State.

In the present case, the petitioner is the son of a martyr. The appointment was made after due verification, and there is nothing on record to suggest that the petitioner suppressed any material fact or procured employment by playing fraud. The details regarding his children were submitted by him in 2012 and were duly accepted by the department. The complaint which surfaced in 2019-2020 made nearly ten years after his appointment and service confirmation. It is well settled position that compassionate appointment policies should not be enforced with undue rigidity. Since the petitioner has not suppressed any material facts at the time of submitting his application for appointment on compassionate grounds, and the respondent authority, after conducting a thorough and due scrutiny of all relevant documents and eligibility criteria, had found him fit for appointment and accordingly granted the same it would now be manifestly unjust and excessively harsh to terminate his services after a long and uninterrupted period of 15 years. Such action would not only defeat the very object of compassionate appointment which is to provide immediate relief to the bereaved family, but would also cause irreparable harm to the petitioner, who has served the department diligently and faithfully for over a decade without any blemish on his record. The principle of natural justice, legitimate expectation, and equity must weigh heavily in favour of the





petitioner, especially when no fraud or misrepresentation has been attributed to him.

In the present case, the petitioner's appointment was granted following the martyrdom of his father during military service, and as such, the disqualification on the ground of having three children cannot override the humanitarian objective of the compassionate appointment scheme.

In cases involving martyrdom or extraordinary hardship, a humane and flexible approach is constitutionally expected of welfare from State. The insistence on technical compliance, especially when there is no allegation of malafide or concealment, defeats the very object of such schemes. As observed by the Apex Court, the rules framed to serve humanitarian ends should not be used as instruments of injustice. Even assuming there was a technical breach, the same ought to have been viewed in the light of the petitioner's unique circumstances and long, blemish-free service.

It is also noted that the Enquiry Officer in his enquiry report has also noted that the petitioner has not suppressed any information, while seeking appointment in the respondent Department. He has also taken note of the fact that the Chief Engineer of the respondent Department has given appointment after thoroughly scrutinizing the requisite documents submitted by the petitioner. Therefore, the petitioner cannot be penalized by terminating his services at this stage.

In the considered opinion of this Court, the judgment relied by learned counsel for the respondent is distinguishable in the



present set of facts as in the case of *Ramdev (supra)*, the petition was filed for grant of appointment, whereas, in the present case the services of the petitioner have been terminated after an uninterrupted period of fifteen years. It is true that if a person is found to be ineligible as per the Rules, he shall not be granted appointment but if a person has already been offered appointment and has served the Department for fifteen long years then it will be travesty of justice to terminate his services treating him ineligible for appointment, more particularly, when the person has not secured the employment by unfair means. In the case of *Ramdev (supra)*, the appointment was denied on the ground of ineligibility and, therefore, it was rightly held that if a person is not eligible as per the Rules then he cannot be appointed, whereas, in the present case, the services are being terminated on the ground that when the petitioner was appointed fifteen years back, he was ineligible. To hold the person ineligible and/or the appointment was dehors the Rules after fifteen years of service will be very harsh and unjustified, more particularly, when the appointment was on compassionate grounds.

In view of the discussions made hereinabove, the present writ petition merits acceptance and the same is allowed. Termination order dated 26.12.2024 is quashed and set aside.

The stay application and other pending applications, if any, also stand disposed of.

(VINIT KUMAR MATHUR),J

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