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COMPASSIONATE APPOINTMENT

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ABSTRACT

In India, compassionate appointment is a welfare-focused employment program designed to help the families of public servants who pass away while in uniform or become medically incapable while serving. By providing a dependent with a job opportunity in a government agency, usually on humanitarian grounds and without going through the standard selection process, the goal is to alleviate the family's unexpected financial hardship. Despite having its roots in administrative discretion and social equality, this mechanism is constrained by government-established legal and procedural rules that have been upheld by numerous court rulings. Despite its vital position in social security, the policy still faces issues with openness, fairness, and striking a balance between meritocracy and compassion. This paper explores the evolution, framework, judicial oversight of compassionate appointment in India.

Introduction

In India, a policy mechanism known as compassionate appointment was created to give the family members of a deceased or medically disabled government employee quick assistance. Families frequently experience extreme financial and emotional hardship when a government employee dies or becomes unable of performing their duties while in the service. In order to counteract this, compassionate appointment allows a dependent family member—usually a spouse or child—to be considered for a government job without going through the regular hiring procedure. Through ensuring that the bereaved family has an opportunity to support themselves without becoming impoverished, this policy seeks to uphold the values of social justice and human decency. While it is not an enforceable right, the scheme is implemented in a structured manner, governed by various departmental rules and judicial precedents.

Historical Background

The concept of compassionate appointments emerged as a response to the need for social security measures within the public employment sector. Initially, there was no formal policy governing such appointments. Over time, recognizing the hardships faced by families of deceased employees, various government departments and public sector undertakings (PSUs) began formulating schemes to provide employment to the dependents of such employees. These schemes aimed to offer immediate financial support and prevent destitution.

The legal recognition of compassionate appointments gained prominence through judicial pronouncements. Courts acknowledged the necessity of such appointments to uphold the principles of social justice and welfare enshrined in the Constitution. However, they also emphasized the need for adherence to established rules and procedures to prevent misuse and ensure fairness.

Definition and Nature of Compassionate Appointment

Compassionate appointment is an exception to the general rule that appointment to public service should be on merits and through open invitation.

In such cases, the appointment is given to a member of the family of the deceased employee by accommodating him in a suitable vacancy.

The Supreme Court from time to time has laid down guidelines for grant of compassionate appointment. Delay in making such an application may lead to denial of grant.

Concept and Purpose of Compassionate Appointment

Compassionate appointment is a need based concept. Hence, where there is already an earning member in the family but a MP/MLA certified that the employed member is living separately and not offering any financial assistance to the main family, request for compassionate appointment may be considered on merits.¹ Such appointments cannot be made where the claimants had received sufficient amounts of money including pension as well as family pension.² The Courts "cannot fall prey" to any sympathy syndrome without reference to

¹ UOI v Draupadi Behara, (2005) 2 SCC 342; (2005) SCC (L&S) 267; (2005) 104 FLR 580; (2005) 4 Serv LR 143; (2005) 2 LLN 19.

² UOI v Shashank Goswami, (2012) 11 SCC 307.

stipulated norms contained in an office memorandum.³

Compassionate appointment is recompense over and above whatever is admissible to the legal representatives of deceased employees as benefits of service which they get on death of the employee.⁴

Reason for the rule

In *Haryana State Electricity Board v Hakim Singh*,⁵ the Supreme Court explained the rationale of the rule relating to compassionate appointment in these words:

"The rule of appointments to public service is that they should be on merits and through open invitation. It is the normal route through which one can get into a public employment. However, as every rule can have exceptions, there are a few exceptions to the said rule also which have been evolved to meet certain contingencies. As per one such exception relief is provided to the bereaved family of a deceased employee by accommodating one of his dependents in a vacancy. The object is to give succour to the family which has been suddenly plunged into penury due to the untimely death of its sole breadwinner. This Court has observed time and again that the object of providing such ameliorating relief should not be taken as opening an alternative mode of recruitment to public employment."⁶

Evolution of the Doctrine

The theory of compassionate appointments has been holding the field for quite some time. The precise connotation of the theory, however, was not laid in any authoritative pronouncement. The courts proceeded on a case by case basis and were guided more by sympathy and sentiment than any recognised principle of law. It has therefore, been recognised as an exception to the general rules relating to appointments.⁷

³ Chief Commissioner, Central Excise & Customs, Lucknow v Prabhat Singh, (2012) 13 SCC 412, 418.

⁴ Govind Prakash Verma v LIC of India, (2005) 10 SCC 289; (2005) SCC (L&S) 590.

⁵ Haryana State Electricity Board v Hakim Singh, (1997) 8 SCC 85; JT 1997 (8) SC 332; see also State of UP Paras Nath, (1998) 2 SCC 412; AIR 1998 SC 2612; Director of Education v Pushpendra Kumar, JT 1998 (4) SC 155; AIR 1998 SC 2230; See also Commissioner of Public Instructions v KR Vishwanath, (2005) 7 SCC 206-object and nature of compassionate appointment. See further State of Uttar Pradesh v Pankaj Kumar Vishnoi, (2013) 11 SCC 178, 182, citing previous cases.

⁶ Ibid Per Thomas, J (1997) 8 SCC 85 at p 87.

⁷ Haryana State Electricity Board v Naresh Tanwar, JT 1996 (2) SC 542; (1996) 8 SCC 23; 1996 (2) Serv LR 11; for an extreme example of a sympathetic decision. See Prem Kanwar v RSRTC, (1992) 1LLJ 800 (Raj)-where widow's claim was entertained even on the assumption that her husband had resigned before his death.

Policy Application and Transition

As in its essence, compassionate appointment is a matter of policy of the employer, it cannot be compelled to make compassionate appointment contrary to its policy. Where an earlier policy is replaced by a new policy, an application for obtaining such appointment will be considered under the new policy.⁸ The policy or provisions for compassionate appointment were questioned on the ground that it violated the constitutional mandate in Article 16(2) which prohibited the State from discriminating on grounds only of, amongst others, descent.⁹ It was argued that the Government memorandum provided for compassionate appointment not only of the son, daughter or widow of the Government servant dying-in-harness but also in cases where a Government servant had retired on medical grounds. Rejecting the contention as far as sons, daughters and widows were concerned where the Government servant dies in harness, the Court upheld the challenge in so far as it extended to near relatives and other eventualities.

Eligibility Criteria and Family Dependence

It can be granted when dependents of deceased employee are living in penury. It cannot be claimed by way of inheritance. It is not a bonanza or another source of recruitment. A person who is gainfully employed cannot be considered as 'dependent' vis-à-vis the deceased employee.¹⁰

A Division Bench of the Patna High Court¹¹ has held that the word "dependent" occurring in the concerned Government circular would include a husband of a deceased female Government servant who died in harness. The Andhra Pradesh High Court has held that in the absence of rules or regulations not covering or contemplating such appointment, directions can be issued on sympathetic consideration.¹² This view is not consistent with several decisions of other High Courts and the Supreme Court already discussed.

⁸ Punjab State Power Corp Ltd V Nirval Singh, (2019) 6 SCC 774.

⁹ Auditor General of India v G Ananta Rajeswara Rao, (1994) II LLJ 812 (SC); (1994) 1 SCC 192; AIR 1994 SC 1521

¹⁰ Parhlad Singh v State of Haryana, 2005 (5) Serv LR 496 (P&H.-DB).

¹¹ Harendra Pandey v State of Bihar, 1995 Lab IC 985 (Pat).

¹² T Rajasekhar v District Educational Officer, Vijayanagaram, 2005 (5) Serv LR 758 (A.P.-DB).

Limitations and Eligibility Conditions

Compassionate appointment has been negated where the employee did not die in harness.¹³ The claim has been refused when there was no dependent.¹⁴ Indigence of the dependent is the first precondition.¹⁵ It has been observed that there is no inherent right to obtain compassionate appointment and it has to be made in accordance with the existing policy.¹⁶

Compassionate Appointment in Cases of Medical Invalidation

However, the principle is not confined to consequences arising out of death only. Compassionate appointment of dependents of a medically invalidated serving government employee has been held to be permissible. The court has reasoned that problems of a family whose member is medically incapacitated, are in some cases more critical than those in the case of a death of a government servant although the court has cautioned that safeguards should be taken to ensure that compassionate appointment is given in deserving cases only where government servant becomes medically invalidated and becomes a burden on the family.¹⁷

Constitutional Consistency and Policy Requirements

Compassionate appointment must be in consonance with the constitutional scheme of equality enshrined in Articles 14 and 16. Exception carved out by the Supreme Court, such as for the Police Department, must be strictly complied with.¹⁸

The Supreme Court has held that in the absence of extant rules or instructions at the time of death of the employee, there can be no claim for compassionate appointment.¹⁹ Such appointments cannot be made dehors any statutory policy.²⁰ It is now clear that the grant of compassionate appointment would be illegal in the absence of any scheme providing therefor. Such scheme must be commensurate with the constitutional scheme of equality.²¹ An employer cannot be compelled to make compassionate appointment contrary to its policy. Since the grant

¹³ Ashok Kumar v District Magistrate, Basti, (2012) 3 SCC 311

¹⁴ Food Corp of India v Raja Ram, (2010) 15 SCC 366.

¹⁵ UOI B Kishore, (2011) 13 SCC 131.

¹⁶ Punjab State Power Corporation Ltd V Nirval Singh, (2019) 6 SCC 774.

¹⁷ V Sivamurthy v State of AP, (2008) 7 Mad L.J 914 (SC).

¹⁸ IG (Karmik) v Prahalad Mani Tripathi, (2007) 6 SCC 162: AIR 2006 SC 2360. Such appointment must be effected under a scheme and such scheme must be in consonance with Articles 14 and 16. National Institute of Technology v Niraj Kumar Singh, (2007) 2 SCC 481: AIR 2007 SC 1155.

¹⁹ Haryana State Electricity Board v Krishna Devi, (2002) 10 SCC 246: (2002) 2 LLJ 773: (2002) 3 SCR 323.

²⁰ State of Haryana v Ankur Gupta, (2003) 7 SCC 704: AIR 2003 246 SC 3797.

²¹ National Institute of Technology v Niraj Kumar Singh, (2007) 2 SCC 481: AIR 2007 SC 1155.

is basically a matter of policy, it is competent for the State to take a policy decision not to continue with the scheme for compassionate appointment. It is the scheme which was operative when the death took place will be applicable and not the subsequent scheme which provided for grant of ex-gratia benefit only.²²

Minor Dependents and Delayed Eligibility

Where a scheme for compassionate appointment provides that in case the dependent is a minor, the employer (Bank) may keep the offer of appointment open till the minor attains the age of majority; it would indicate that irrespective of the fact that deceased's family was getting family pension and also obtained terminal benefits, the offer will remain valid till the applicant attains majority.²³

Bipartite Agreements and Mandatory Implementation

Although compassionate appointment is a matter of discretion, it is not necessarily so when there is specific provision to grant such appointment in a Bipartite agreement.²⁴

Consideration of Financial Factors

In *Shashi Kumar*,²⁵ the Supreme Court, after considering some of the basic principles emerging from the earlier judgments of the Court, has laid down some important factors like taking into account family pension and gratuity, fixation of income slab, appropriate income criteria, periodic revision of income limits, inflation etc., which are required to be noted by the employer (government/public bodies) in the decision making process in relation to granting compassionate appointments.

Applicable Scheme and Cause of Action

Cause of action for such an appointment will arise when the event (e.g., death) occurs, and, as such if there are two or more successive schemes, then the claim could be made only under that scheme which was operative at the time of death.²⁶ A three-judge Bench has reiterated that the norms prevailing on the date of application will be applicable and not the date of death at the

²² *Canara Bank v M Mahesh Kumar*, (250 2015) 7 SCC 412

²³ *Canara Bank v M Mahesh Kumar*, (2015) 7 SCC 412, 421.

²⁴ *Subhadra v Ministry of Coal*, (2018) 11 SCC 201

²⁵ *State of Himachal Pradesh v Shashi Kumar*, (2019) 253 (3) SCC 653.

²⁶ *MGB Gramin Bank v Chakrawarti Singh*, (2014) 13 SCC 583 relying on *SBI v Raj Kumar*, (2010) 11 SCC 661.

time of consideration for compassionate appointment.²⁷

Immediate Relief and Creation of Posts

In *Sushma Gosain v UOI*,²⁸ the Supreme Court pointed out that the purpose of providing appointment on compassionate grounds is to mitigate the hardship due to death of the bread earner in the family and that such appointment should, therefore, be provided immediately to redeem the family in distress. The Court further observed that it was improper to keep such cases pending for years and that if there was no suitable post for appointment, a supernumerary post should be created to accommodate the applicant.

Nature and Limitations of the Right

It has also been pointed out that it is neither a vested right which can be exercised at anytime even after the crisis created by the death is over,²⁹ nor a hereditary right?³⁰ nor can it be bequeathed.³¹ Having regard to the object, claim for such appointment cannot be kept alive for ever. Even the possession of relevant qualification does not create any vested right to get appointed to a post specified by the Scheme. His right is limited to get preferential treatment subject to the discretion of the employer.

Eligibility of Daily Wagers and Non-Government Employees

A person not regularly appointed but who had otherwise put in three years continuous service in "regular vacancy" in such employment e.g. daily wagers employed in Uttaranchal Jal Sansthan were not government servants and as such his dependents were not entitled to be considered for compassionate appointment.³²

Exceptional Nature and Impact on Other Candidates

A three Judge Bench has explained the purpose of compassionate appointment and pointed out its exceptional nature and the need to take care that its application did not interfere with the

²⁷ N.C.Santosh u State of Karnataka, (2020) 7 SCC 617

²⁸ *Sushma Gosain v UOI*, 1989 (4) Serv LR 327; JT 1989 (3) SC 570; (1989) 4 SCC 468; AIR 1989 SC 1976.

²⁹ *Haryana State Electricity Board v Naresh Tanwar*, JT 1996 (2) SC 542; (1996) 8 SCC 23; 1996 (2) Serv LR 11.

³⁰ *Srikanth v Chief Engineer, Karnataka Electricity Board*, 1996 (1) Serv LR 118

³¹ *Ashok Kumar Maiti v State of WB*, 1995 Lab IC 2175. See *SAIL v Madhusudan Das*, (2008) 15 SCC 560- Concession, not right

³² *Uttaranchal Jal Sansthan v Laxmi Devi*, (2009) 7 SCC 205; AIR 2009 SC 3121.

right of other persons who are eligible to seek employment.³³

Finality and Non-Perpetuity of the Right

But whatever may be the nature of the right, there is no such principle as "endless compassion" and the claim will stand extinguished once one of the posts applied for is offered and accepted, e.g. where the deceased's son applies for appointment either as a Sub Inspector or lower division clerk and is offered the post of lower division clerk which is accepted, cannot thereafter claim to be appointed as Sub Inspector.³⁴ Dependents, if gainfully employed, cannot be considered.³⁵ The aspirant cannot insist upon appointment to a particular post particularly when the post insisted upon is not available.³⁶

The principle is applied when an employee was missing and had not been heard of for more than seven years based on the presumption of death.³⁷

Monetary Benefits vs. Employment Rights

Compassionate appointment and the benefits flowing from a Family Benefit Scheme cannot be equated since a lump sum monetary benefit cannot replace the bread earner, although constitutional obligation was emphasized, the actual decision was based on the preservation of the right to be considered for compassionate appointment in a tripartite agreement.

Statutory Rules and Disqualification Based on Age

In cases where there are statutory rules governing the field of eligibility, such appointment will be disallowed if the eligibility criteria is not fulfilled. Hence, where such a rule provided that the deceased employee should be less than 55 years old, but the father of the claimant died after crossing that age, such appointment was denied.³⁸

³³ Director of Education (Secondary) v Pushpendra Kumar, (1998) 5 SCC 192: AIR 1998 SC 2230.

³⁴ State of Rajasthan v Umrao Singh, (1994) 6 SCC 560: 1995 SCC (L&S) 10.

³⁵ (1998) 5 SCC 452: 1998 SCC (185) 1371.

³⁶ Director of Education (Secondary) v Pushpendra Kumar, (1998) 5 SCC 192: AIR 1998 SC 2230. See SAIZ Madhusudan Das, (2008) 15 SCC 560-no right.

³⁷ Chief Engineer, Central Zone, APSEB v K Naga Hema, (1996) 1 LLJ 1121.

³⁸ Vijay Kumar v State of Haryana, 2005 (5) Serv LR 743, 744 (P&H.-DB).

Judicial Interpretations and Limitations

Non ratification by government of compassionate appointment (made by a municipality) on the ground that there was lapse of ten years as well as the fact that 2 sons were already employed the time of the mother's death and the consequential termination of service has been held to be valid notwithstanding the services rendered pursuant to interim order of court.³⁹

Since the immediate financial disruption is the dominating consideration, a dependent son who was 4 years of age at the time of his fathers death could not claim to be appointed on compassionate grounds upon attaining majority.⁴⁰ It cannot be given in the face of financial constraints of the employer nor without going into the question of the needs of the family.⁴¹ And if rules or guidelines have been framed regarding compassionate appointment it can only be given consistently with such rules.⁴²

Supreme Court's Stand and Constitutional Principles

The Supreme Court has emphasised that the purpose is to get over a sudden financial crisis and not to confer status. Further, the grant must be in accordance with rules, regulations and administrative instructions. The Court also observed that these appointments could not be sourced to Articles 14 and 16 since public service appointments should be made by open invitation.⁴³ Where a ceiling has been fixed for such an appointment and that ceiling has been exhausted, the question as to whether the ceiling should be relaxed is entirely a matter of administrative discretion and the courts cannot direct the authorities to relax the ceiling.⁴⁴

Gender and Rival Claims Considerations

Where the rules provided that only one dependent of the deceased can be given employment, then in the case of rival claims between the dependent son and the dependent unmarried daughter the authorities would be acting lawfully, if it appointed the unmarried daughter where

³⁹ S Mohan v Govt of TN, (1998) 9 SCC 485: 1998 SCC (L&S) 1231.

⁴⁰ Jagdish Prasad v State of Bihar, (1996) 1 SCC 301: JT 1995 (9) SC 131. See also Ila Sarkar v State of WB, (1996) II LLJ 1122: 100 Cal WN 483; State of UP v Paras Nath, (1998) 2 SCC 412: AIR 1998 SC 2612 (long delay). See also Sanjay Kumar v State of Bihar, (2000) 7 SCC 192: AIR 2000 SC 2782.

⁴¹ Umesh Kr. Nagpal v State of Haryana, (1995) I LLJ 798 (SC): (1994) 4 SCC 138: 1994 SCC (L&S) 930. Baljinder Singh v State Bank of Bikaner/Jaipur, (2005) (5) Serv LR 500-denied because resourceful family. See also State Bank of India v Surya Narain Tripathi, (2014) 15 SCC 739.

⁴² Life Insurance Corp of India v Asha Ramchandra Ambekar, (1994) 2 SCC 718: AIR 1994 SC 2148; Umesh Kr. Nagpal v State of Haryana, (1994) 4 SCC 138: (1995) I LLJ 798 (SC): 1994 SCC (L&S) 930.

⁴³ UOI v Shushak Goswami, (2012) 11 SCC 307

⁴⁴ UOI v Joginder Sharma, (2002) 8 SCC 65: 2002 SCC (L&S) 111.

the son was over-age for employment whereas the unmarried daughter was found suitable keeping in view her physical and educational qualifications.⁴⁵ However, a scheme of compassionate appointment which excludes a married daughter from the category of beneficiaries has been held to be not discriminatory.⁴⁶ The rules relating to compassionate appointment may validly create a distinction between death or disability occurring in the course of employment and those which have no nexus with the employment and such a distinction will not be discriminatory.⁴⁷

Validity and Irregular Appointments

Such appointment if not made under the rules is void-ab-initio and since the petitioner had manipulated the appointment no relief could be granted to him against his termination from service. Compassionate appointment cannot be declined on the ground that other sons of the deceased employee were already employed or the elder son though living separately has been made permanent after the death of the father⁴⁸ or that another brother was in employment of the Electricity Board when the deceased was not an employee of that Board or that the widow of the deceased Government servant was living with her husband's brother as man and woman.⁴⁹

Financial Condition and Public Resources

Denial of compassionate appointment cannot be considered as arbitrary where the dependents received total retiral benefits and take home pay of the deceased and the income from the retiral benefits would be the same.⁵⁰

The widow of a peon working in a school which is a charitable organization was denied appointment on compassionate ground. The High Court dismissed her petition on the ground that at the relevant point of time the scheme permitted such appointment if monthly income is less than Rs 500/- and she was also receiving family pension. The Supreme Court held that while appointment on a compassionate ground cannot be denied only because she is getting

⁴⁵ Surendra Singh Gaur v State of UP, 1988 (3) Serv LR 731 (All-DB).

⁴⁶ V Sunithakumari v Kerala State Electricity Board, 1992 Lab IC 2474.

⁴⁷ West Bengal State Electricity Board v Samir Kumar Sarkar, (1996) 7 SCC 762: AIR 1999 SC 3415 no reasoning of substance appears in the judgment.

⁴⁸ Motia Devi v Life Insurance Corp of India, 1993 (3) Serv LR 68 (DB).

⁴⁹ Jethi Devi v Bhakra Beas Management Board, (1995) 6 SCC 61: 1995 SCC (L&S) 1353,240TE

⁵⁰ Shiv Kumar Sharma v Punjab National Bank, 2005 (1) Serv LR 697, 698 (P&H-DB), (relying on Umesh Kumar Nagpal v State of Haryana, 1994 (2) Serv LR 677 (SC)).

family pension, various factors are to be considered. Such appointment is not a source of recruitment. The purpose of such appointment is to tide over the family crisis. Since the school was a charitable organization receiving Government aid and since somebody else had already had been appointed in the deceased employee's place and the school could not afford to appoint another person if the post is not sanctioned, no compassionate appointment could be given to the widow of the deceased employee. Further, more than 12 years had passed, her son was 20 and her daughter was 16 and she herself was 38 years old and she could not be given appointment at that age.⁵¹

Medical Invalidation and Legal Controversy

In relation to medical invalidation (and not death) a Full Bench of the Andhra Pradesh High Court held that compassionate appointment of dependent family members is not permitted on grounds of medical invalidation of the government servant, the same being violative of Article 16 as it would amount to discrimination based on descent only. Reversing the decision, the Supreme Court held that while employment should not be hereditary or by succession but where a policy decision provides for such appointment in case of an employee dying in harness or is medically invalidated such classification cannot be termed as only on grounds of descent but is on the basis of additional conditions being death of an employee in harness or medical invalidation.⁵² Where a circular provided that the employee who is made to retire on a specified date due to medical invalidation his ward could be given an offer of employment but no such offer was made the Supreme Court directed compassionate appointment to the ward.⁵³ Earlier, the Court had already held that such appointments cannot be given on the basis of descent.⁵⁴

Misconduct, Inheritance and Disqualification

The past conduct of deceased employee can be a relevant consideration and as such the Court has upheld the policy of the government to refuse appointment to the dependent of a deceased employee who had been punished for a misconduct since such refusal is neither a double jeopardy nor violation of natural justice as compassionate appointment is a concession, not a

⁵¹ Mumtaz Yunus Mulani v State of Maharashtra, (2008) 11 SCC 384.

⁵² V Shivamurthy v State of AP, (2008) 13 SCC 730. See also Bhawani Prasad Sonkar v UOI, (2011) 4 SCC 209, reiterating the four guidelines relating to grant of compassionate appointment indicated in V Sivamurthy v State Andhra Pradesh, (2008) 13 SCC 730.

⁵³ Bhawani Prasad Sonkar v UOI, (2011) 4 SCC 209.

⁵⁴ IG (Karmik) v Prahalad Mani Tripathi, (2007) 6 SCC 162.

right.⁵⁵ These pronouncements fly in the face of the object and scheme of compassionate appointment enunciated by the Supreme Court itself. In effect it amounts to visiting the dependent with the guilt of the deceased delinquent employee. It cannot be the view of any reasonable body of persons (which presumably includes the Supreme Court) that guilt runs in the blood.

Exceptions and Broader Applications

Apart from death and invalidation, compassionate appointments may be granted where landholders lose their entire land for public projects particularly when the acquisition of land does not provide for market value and solarium, as compensation.⁵⁶

Compassionate appointment will be discriminatory if an arbitrary cut off date is fixed.⁵⁷ If compassionate appointment is made applicable to situations other than death or the classes of beneficiaries are extended from family members to near relatives it would be violative of Articles 14 and 16(2) of the Constitution. At the same time when the State takes a conscious decision with knowledge that the brother of the deceased was not within the definition of 'dependent', it cannot turn around after 15 years of such appointment to terminate his appointment and particularly so when the brother had made no false declaration or suppressed any material fact for securing the appointment.

Constitutional Constraints on Expansion

Having regard to the exceptional nature of the appointment, the Supreme Court has pointed out that a scheme extending the scope of appointment to all sorts of casual or ad bee employees including apprentices would be unconstitutional as violating Article 14.⁵⁸ Thus, a compassionate appointment cannot be made if the dependent is not qualified or eligible to hold the post and the same cannot be relaxed unless rules permit.⁵⁹

⁵⁵ SBI v Anju Jain, (2008) 8 SCC 475.

⁵⁶ V Sivamurthy v State of Andhra Pradesh, (2008) 13 SCC 730.

⁵⁷ GS Suresh Kumar v State of Kerala, 1992 Lab IC 2349: (1992) II LLJ 833 (Ker); Indumathy v Commissioner Secretary, 1993 (2) Serv LJ 49 (Ker).

⁵⁸ State of Haryana v Rani Devi, JT 1996 (6) SC 646: (1996) 5 SCC 308: AIR 1996 SC 2445. See also State Bank of India v Shweta Sahu, (2010) 15 SCC 146—denied to adopted daughter as scheme referred to brother and sister as dependent of unmarried employee.

⁵⁹ State of Gujarat v Arvindkumr T Tiwari, (2012) 9 SCC 545.

Judicial Overreach and Administrative Authority

Where a competent authority on consideration of all the relevant factors for assessing financial condition of the deceased employee's family found that the family was not in any means of livelihood, the Court in exercise of power under Article 226 erred in again going into the question of the financial condition of the family and interfering with the findings of the competent authority. A direction given for compassionate appointment by the Court without remitting the matter to the employer to consider fitness of claimants in respect thereof is not justified.⁶⁰

Balancing Sympathy with Legal Boundaries

However, like other cases of individualised justice the Supreme Court seems to have recognized the supremacy of law over sympathy and emotion. It has taken note of the potentiality of compassionate appointment to shut the door for employment to the ever growing population of unemployed youth, more particularly when the industry was being asked to reduce the number of employees by offering retirement schemes and the like. Determination of the financial conditions of the family on various factors and taking into consideration the income of the family from all sources the Court held that the grant of compassionate appointment could not be sustained.⁶¹

Conclusion

In India, compassionate appointment is a crucial social safety mechanism that provides prompt assistance to families of government workers who experience an unanticipated loss or incapacity of the primary provider. The program, which is based on the ideas of social justice and equity, shows the government's dedication to providing humanitarian aid while staying within the parameters of public employment. Though the intention is admirable, there are often administrative and legal obstacles to its execution, which raises questions about consistency, justice, and openness. Simplifying qualifying requirements, enhancing procedural clarity, and adhering to court rulings are crucial to ensuring the program keeps fulfilling its goals without undermining fairness or creating systemic disparities. When carried out with honesty and care, compassionate appointment can serve as a significant link between livelihood and loss.

⁶⁰ Doiwala Sugar Co Ltd v Manjeet Singh Negi, (2006) 9 SCC 381.

⁶¹ Union Bank of India v MT Latheesh, (2006) 7 SCC 350.