

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.5349 OF 2024

Hrishikesh Haribhau Chavan]
R/o. Daund, Pune – 413 801] .. Petitioner

Versus

1. The State of Maharashtra,]
Through General Administrative Department,]
Mantralaya, Mumbai – 400 032.]
2. The Chairman,]
Maharashtra State Pathyapustak Nirmiti ani]
Abyaskram Sanshodhan Mandal, Balbharti,]
Senapati Bapat Marg, Pune – 411 004.] .. Respondents

Mr. Hrishikesh Nabar, h/f. Ms. Gargi Warunjikar, Advocates for the
Petitioner.

Smt. Shruti D. Vyas, Additional Government Pleader with Smt. G.R.
Raghuwanshi, Assistant Government Pleader for the Respondent-State
of Maharashtra.

Mr. Prafulla D. Pawar, Advocate for Respondent No.2.

**CORAM : SUMAN SHYAM &
GAUTAM A. ANKHAD, J.**

RESERVED ON : 21st September, 2026.

PRONOUNCED ON : 29th September, 2026.

JUDGMENT : { Per Gautam Ankhad, J. }

1. Rule. Rule is made returnable forthwith and the Writ Petition is
heard finally with the consent of the parties.

2. Mr. Nabar, learned counsel for the Petitioner, submits that the Petitioner seeks appointment on compassionate ground against the post held by his late father, Shri Haribhau Bhagwant Chavan (**“deceased”**), who was serving as a Senior Assistant Store Keeper with Respondent No.2 and died on 28th August, 2019, while in service.

3. After the demise of the Petitioner’s father, on 16th September, 2019, an application was made by the Petitioner’s mother seeking appointment of her elder son on compassionate grounds. This application was rejected on 5th October, 2019 as the deceased employee belonged to Category ‘B’ and under the then prevailing policy, compassionate appointment was available only to the legal heirs of employees falling in Categories ‘C’ and ‘D’. The said order of rejection was not challenged.

4. On 3rd October, 2023, the Petitioner, who is the younger sibling, submitted an application seeking his own appointment on compassionate ground on account of pre-mature death of the father who died in harness on 28th August, 2019. The Petitioner relied upon the Government Resolution dated 27th September, 2021 contending that the benefit of compassionate appointment was extended to employees falling in Categories ‘A’ and ‘B’ also, with effect from 1st January, 2020.

5. The Petitioner's application was rejected by the impugned communication dated 21st December, 2023 on the ground that the Petitioner's claim was required to be considered with reference to the policy governing the appointment on compassionate grounds at the time of the death of the deceased employee, i.e, policy dated 21st September, 2017, whereby the compassionate appointment was confined to the legal heirs of employees belonging to Categories 'C' and 'D' only. The Petitioner was also informed that the Government Resolution dated 27th September, 2021 operated prospectively, i.e., from 1st January, 2020. The impugned communication further refers to the postmortem findings as taking the case outside the prescribed criteria. Aggrieved thereby, the Petitioner has approached this Court.

5. Mr. Nabar submits that the impugned communication is bad in law as the Petitioner is entitled to the appointment as per the Government Resolution dated 27th September, 2021. It is submitted that since the Petitioner's application was made in 2023, the benefit of the Government Resolution dated 27th September, 2021 must be extended to him.

6. Ms. Vyas, learned Additional Government Pleader, submits that there is gross delay in filing of the Petition. That apart, Respondent No.2 has rightly rejected the Petitioner's as well as his elder brother's application on the basis of the then prevailing policy. The learned AGP

relies upon the judgment of the Hon'ble Supreme Court in ***State of Madhya Pradesh & Ors. Vs. Ashish Awasthi***¹ in support of her above submissions and submits that this Petition ought to be dismissed.

7. We have heard the learned counsel and have perused the record. It is well settled that compassionate appointment is an exception to the ordinary rule of recruitment. Its object is to mitigate hardship by providing immediate financial assistance to the family of a deceased employee facing financial crisis on account of untimely death of the sole bread earner of the family. The sense of immediacy is lost by the delays in seeking such appointment. Compassionate appointment is not a vested right which can be exercised at any time. As reiterated by the Hon'ble Supreme Court in ***State of West Bengal v. Debabrata Tiwari***², the authority is required to determine the eligibility of the family member and the applicable scheme or rules governing such appointments. Admittedly, the deceased was a Category 'B' employee. There is also no dispute about the fact that, immediately following his death, the Petitioner's brother's application for compassionate appointment was rejected on the ground that the policy, then in force, did not extend the benefit of compassionate appointment to the legal heirs of a Category 'B' employee. As noted above, this rejection has not been challenged. The

¹ (2022) 2 SCC 157

² (2025) 5 SCC 712.

same yard-stick/policy dated 21st September, 2017 is applicable to the Petitioner also. Therefore, his subsequent application, filed four years later, cannot give rise to an independent or fresh entitlement, de hors the policy in force at the time of the death of the Government Servant.

8. The Petitioner's reliance on the subsequent Government Resolution dated 27th September, 2021 is misplaced, as the same is made applicable in the background of the Covid-19 disruption. In any case, the said Government Resolution expressly provides that the same would operate only prospectively from 1st January, 2020. The subsequent Resolution dated 27th September, 2021 cannot be treated as creating a right or a fresh cause of action in Petitioner's favour. The said Resolution has no application as admittedly the Petitioner's father passed away prior to the date from which the aforesaid Resolution became operative.

9. In ***State of Madhya Pradesh & Ors. Vs. Ashish Awasthi***³, the Hon'ble Supreme Court while dealing with a similar situation has dismissed the application for appointment on compassionate ground based on a subsequent policy and has held as follows:-

"3. We have heard the learned counsel for the respective parties at length.

4. The deceased employee died on 8-10-2015. At the time of death, he was working as a work-charged employee, who was paid the salary from the contingency fund. As per the policy/circular prevalent at the time of the death of the deceased employee i.e. Policy/Circular No. C-3-12/2013/1-3 dated 29-9-2014 in case of

³ (2022) 2 SCC 157

death of the employee working on work charge, his dependents/heirs were not entitled to the appointment on compassionate ground and were entitled to Rs.2 lakhs as compensatory amount. Subsequently, the policy came to be amended vide Circular dated 31-8-2016, under which even in the case of death of the work-charged employee, his heirs/dependents will be entitled to the appointment on compassionate ground. Relying upon the subsequent Circular/Policy dated 31-8-2016, the Division Bench of the High Court has directed [Ashish Awasthi v. State of M.P., 2018 SCC OnLine MP 1824] the appellants to consider the case of the respondent for appointment on compassionate ground.

5. As per the settled proposition of law laid down by this Court for appointment on compassionate ground, the policy prevalent at the time of death of the deceased employee only is required to be considered and not the subsequent policy.
6. In Indian Bank v. Promila [Indian Bank v. Promila, (2020) 2 SCC 729 : (2020) 1 SCC (L&S) 312], it is observed and held that claim for compassionate appointment must be decided only on the basis of relevant scheme prevalent on date of demise of the employee and subsequent scheme cannot be looked into. Similar view has been taken by this Court in State of M.P. v. Amit Shrivastava [State of M.P. v. Amit Shrivastava, (2020) 10 SCC 496 : (2021) 1 SCC (L&S) 68]. It is required to be noted that in Amit Shrivastava [State of M.P. v. Amit Shrivastava, (2020) 10 SCC 496 : (2021) 1 SCC (L&S) 68] the very scheme applicable in the present case was under consideration and it was held that the scheme prevalent on the date of death of the deceased employee is only to be considered. In that view of the matter, the impugned judgment and order [Ashish Awasthi v. State of M.P., 2018 SCC OnLine MP 1824] passed by the Division Bench is unsustainable and deserves to be quashed and set aside.

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8. In view of the above and for the reasons stated above, the present appeal succeeds, the impugned judgment and order [Ashish Awasthi v. State of M.P., 2018 SCC OnLine MP 1824] passed by the Division Bench of the High Court of Madhya Pradesh, Bench at Jabalpur in WA No. 1559 of 2018 is hereby quashed and set aside by observing that the respondent shall not be entitled for appointment on compassionate ground on the basis of the subsequent Circular/Policy dated 31-8-2016.”

10. The principle laid down in the above decision, squarely applies to the facts of the present case. Here too, the deceased employee died at a time when the applicable policy did not extend compassionate appointment to Category ‘B’ employees. Hence, the Petitioner’s claim cannot be considered under the subsequent Resolution dated 27th September, 2021.

11. For the above reasons, we find no merit in the Writ Petition. Writ Petition No.5349 of 2024 is dismissed.

12. Rule is discharged.

13. There shall be no order as to costs.

[GAUTAM A. ANKHAD, J.]

[SUMAN SHYAM, J.]