



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

BEFORE

HON'BLE SHRI JUSTICE JAI KUMAR PILLAI

ON THE 29TH OF JANUARY, 2026

WRIT PETITION No.5454 of 2025

SMT. MANISHA

Versus

***M.P. STATE AGRICULTURE MARKETING BOARD AND
OTHERS***

Appearance:

Shri Vijay Kumar Patwari- Advocate for the petitioner.

Ms. Swati Ukhale – Advocate for respondents/State.

Shri AbhinavDanodkar- Advocate for respondent No. 1, 2 & 4.

ORDER

This writ petition has been preferred by the petitioner under Article 226 of the Constitution of India calling in question the legality and validity of the order dated 30/12/2024 (Annexure P/12) passed by



the respondent authorities, whereby the petitioner has been directed to obtain and submit a succession certificate from the competent Court in relation to her claim for compassionate appointment, and her application has not been considered on merits under the applicable compassionate appointment policy.

2. The facts of the case, briefly stated, are that the husband of the petitioner, late Shri Jitendra Solanki, was in service under the respondent Department and was posted as Assistant Sub-Inspector, Krishi Upaj Mandi Samiti, Dhar, District Dhar. During the course of service, he expired on 12/11/2023. After the death of her husband, the petitioner submitted an application along with the requisite documents seeking appointment on compassionate grounds under the State Government policy.

3. After submission of the application, the respondent authorities issued various communications seeking documents, which, according to the petitioner, were duly supplied. Thereafter the younger brother of the deceased employee, Shri Mahendra Solanki, also submitted an application for compassionate appointment.

4. On account of the said competing application, the respondent authorities, by order dated 30/12/2024 (Annexure P/12), directed the petitioner to obtain and submit a succession certificate from the competent Court. Pursuant thereto, the petitioner filed a case for



succession certificate before the Court of Civil Judge, Class-I, Dharampuri, District Dhar, which is stated to be pending. The petitioner belongs to Scheduled Tribe (Bhilala) and has asserted that she is facing acute financial hardship and has no regular source of income for survival of herself and her minor daughter. Being aggrieved by the impugned order dated 30/12/2024 and the inaction of the respondents, the petitioner has approached this Court by filing the present writ petition.

5. Learned counsel for the petitioner contended that the petitioner is the legally wedded wife of the deceased employee and, under the applicable compassionate appointment policy, she has the first and preferential right to be considered for compassionate appointment. It was submitted that the policy nowhere provides that a younger brother of a deceased married employee is entitled to compassionate appointment. It was argued that the insistence of the respondents on production of a succession certificate is arbitrary, illegal, and contrary to the compassionate appointment policy, particularly when there is no dispute regarding the petitioner's status as the wife of the deceased. On these grounds, the petitioner prayed for quashment of the impugned order dated 30.12.2024 and for issuance of a direction to the respondents to consider her case for compassionate appointment in accordance with the policy.

6. *Per contra*, the respondents opposed the petition on the ground of



maintainability as well as on merits. It was contended that compassionate appointment is not a matter of inheritance or a vested right, but an exception intended to provide immediate financial assistance to the family of a deceased employee. The respondents submitted that after the death of late Shri Jitendra Solanki, two persons, namely the petitioner (wife) and Shri Mahendra Solanki (younger brother), applied for compassionate appointment, resulting in competing claims. It was argued that in such circumstances, the respondent authorities were justified in calling upon the petitioner to submit a succession certificate as a bona fide administrative step to determine the rightful claimant, in accordance with Clause 2.7 of the compassionate appointment policy.

7. The respondents further asserted that the impugned order does not reject the petitioner's claim but merely seeks compliance with a procedural requirement to avoid future disputes and litigation. It was further contended that the petitioner has an alternative and efficacious remedy under Section 59 of the Madhya Pradesh Krishi Upaj Mandi Adhiniyam, 1972, and therefore the writ petition is not maintainable. Reliance was placed upon the judgment of the Hon'ble Supreme Court in **State of Himachal Pradesh & Anr. v. Shashi Kumar, (2019) 3 SCC 653**, to submit that there is no absolute right to compassionate appointment. On these grounds, dismissal of the writ petition with costs was prayed for.



8. Heard both parties at length and examined the entire record available.

9. This Court, upon careful examination of the record, first proceeds to examine the impugned order dated 30.12.2024. The operative portion thereof reads as under:-

“उपरोक्त विषयांतर्गत संदर्भित पत्र के पारून में लेख है कि स्व.श्री जितेन्द्र सोलंकी स.उ नि.कृषि उपज मण्डी समिति धार जिला धार की पत्नी श्रीमति मनीषा सोलंकी एवं भाई श्री महेन्द्र सोलंकी की अनुकंपा नियुक्ति के संबंध में प्रकरण में सक्षम न्यायालय से उत्तराधिकारी प्रमाण पत्र प्राप्त कर प्रस्तुत करने हेतु कार्यालयीन संदर्भित पत्र से आपको सूचना दी गई थी, परंतु आपके द्वारा आज दिनांक तक सक्षम न्यायालय से उत्तराधिकारी प्रमाण पत्र प्राप्त कर प्रस्तुत नहीं किया गया है। उक्त संबंध में पुनः वांछित प्रमाण पत्र चाहा गया है।

अतः आप सक्षम न्यायालय से उत्तराधिकारी प्रमाण पत्र प्राप्त कर तत्काल कार्यालय में प्रस्तुत करें, ताकि अग्रिम कार्यवाही हेतु प्रमाण-पत्र वारेष्ठालय को भेजा जा सके।”

10. A plain reading of the impugned order demonstrates that the respondents have not considered the petitioner’s claim on merits and have insisted upon submission of a succession certificate solely on the ground that the wife and the brother of the deceased employee have both applied for compassionate appointment.

11. This Court now proceeds to examine the relevant provisions of the compassionate appointment policy dated 29.09.2014 (Annexure



P/2). Clause 2 of the policy, which defines “dependent member” and the order of priority, reads verbatim as under:-

“2. अनुकंपा नियुक्ति के लिए आश्रित सदस्य से तात्पर्य (क्रमानुसार)

2.1 दिवंगत शासकीय सेवक की पत्नी, अथवा पूर्णतः आश्रित पति

2.2 मृतक शासकीय सेवक के आश्रित पति/पत्नी द्वारा योग्यता न रखने अथवा स्वयं अनुकंपा नियुक्ति न लेना चाहे तो उसके द्वारा नामांकित पुत्र या अविवाहित पुत्री।

2.3 ऐसी विधवा अथवा तलाकशुदा पुत्री, जो दिवंगत शासकीय सेवक की मृत्यु के समय उस पर पूर्णतः आश्रित होकर उसके साथ रह रही हो अथवा उपरोक्त पात्र सदस्य न होने की स्थिति में विधवा पुत्रवधु जो शासकीय सेवक की मृत्यु के समय उस पर पूर्णतः आश्रित होकर उनके साथ रह रही हो।

2.4 दिवंगत शासकीय सेवक की संतान सिर्फ पुत्री/पुत्रियां हों और वह विवाहित हो तो दिवंगत शासकीय सेवक के आश्रित पति/पत्नी द्वारा नामांकित विवाहित पुत्री।

यह स्पष्ट किया जाता है कि मृतक शासकीय सेवक के आश्रित पति/पत्नी जीवित होने पर ही विवाहित पुत्री को अनुकंपा नियुक्ति की पात्रता होगी। (ऐसी अनुकंपा नियुक्ति पाने वाली पुत्री को शासकीय सेवक के आश्रित पति/पत्नी के पालन-पोषण की जिम्मेदारी का शपथ पत्र देना होगा)

2.5 यदि मृतक शासकीय सेवक की प्राकृतिक संतान न हो तो ऐसी दत्तक संतान जिन्हें शासकीय सेवक (दम्पति) द्वारा शासकीय सेवक के जीवित रहते हुए वैधानिक रूप से गोद लिया हो।

2.6 अविवाहित दिवंगत शासकीय सेवक के भाई अथवा अविवाहित बहन को दिवंगत शासकीय सेवक के माता-पिता की अनुशंसा के आधार पर। परन्तु अविवाहित दिवंगत शासकीय सेवक के माता-पिता भी जीवित न हो तो उनके आश्रित छोटे अविवाहित भाई/बहन को उनकी आपसी सहमति के आधार पर अनुकंपा नियुक्ति दी जाएगी।

2.7 मृतक शासकीय सेवक पति/पत्नी दोनों में से कोई जीवित न हो तो उसके परिवार के सभी सदस्यों द्वारा एकमत होकर शपथ पत्र पर नामांकित कोई एक सदस्य। परिवार में सहमति न होने पर संबंधित जिले के कलेक्टर द्वारा यह निर्णय लिया जावेगा कि किसे अनुकंपा नियुक्ति दी जावे।

यह स्पष्ट किया जाता है कि उपरोक्त सभी कंडिकाओं के परिप्रेक्ष्य में मृतक शासकीय सेवक के आश्रित पति/पत्नी के पालन-पोषण की जिम्मेदारी का शपथ पत्र अनुकंपा नियुक्ति के पात्र अभ्यर्थी से अनिवार्यतः लिया जावेगा।”



12. Upon due consideration of Clause 2.1 and Clause 2.6, it becomes manifest that the wife of a deceased government servant occupies the first and highest priority for compassionate appointment. Clause 2.6, which provides for consideration of a brother, is expressly confined to cases where the deceased government servant was unmarried.

13. In the present case, the factual position is undisputed that late Shri Jitendra Solanki was married to the petitioner and that the petitioner is his legally wedded wife. The respondents themselves have not disputed this status. This Court finds that the application submitted by the younger brother of the deceased employee does not create a legally cognizable competing right under the policy, inasmuch as the policy does not recognize a brother as an eligible dependent in the case of a married deceased employee.

14. Clause 2.7 of the policy, on which reliance has been placed by the respondents, applies only in a situation where neither the husband nor the wife of the deceased government servant is alive. The said clause, therefore, has no application to the facts of the present case. The insistence on production of a succession certificate, in the considered view of this Court, is misplaced in the context of compassionate appointment. A succession certificate is ordinarily required for determination of rights to estate or terminal benefits where there is a dispute among legal heirs or absence of nomination. The compassionate appointment policy, however, operates on a distinct footing and is



governed strictly by the eligibility and priority defined therein.

15. This Court is of the opinion that where the policy itself clearly identifies the eligible dependent and the order of priority, the administrative authority cannot introduce an additional requirement, such as a succession certificate, which has the effect of defeating or delaying the object of the policy. The reliance placed by the respondents on the principle held in **State of Himachal Pradesh & Anr. v. Shashi Kumar**, that compassionate appointment is not a matter of right does not advance their case. While it is true that compassionate appointment is not an inherited right, it is equally settled that where a policy exists, the claim of an eligible dependent must be considered strictly in accordance with the policy and cannot be thwarted by extraneous considerations.

16. The objection regarding availability of an alternative remedy under Section 59 of the Madhya Pradesh Krishi Upaj Mandi Adhiniyam, 1972, is also not sustainable in the facts of the present case. The grievance raised by the petitioner pertains to violation of the compassionate appointment policy and arbitrary exercise of administrative power, for which this Court's writ jurisdiction is clearly attracted. For all the aforesaid reasons, this Court finds that the impugned order dated 30/12/2024 suffers from non-application of mind to the governing policy and is unsustainable in law.



17. In view of the foregoing analysis, the writ petition is allowed. The impugned order dated 30/12/2024 (Annexure P/12) is hereby **quashed**. The respondents authorities are directed to consider the application of the petitioner for compassionate appointment strictly in accordance with the compassionate appointment policy dated 29/09/2014, expeditiously and in accordance with law, without insisting upon submission of a succession certificate.

18. The compliance of this order be ensured within a period of **60 days** from the date of receipt of a certified copy of this order.

19. Accordingly, the writ petition is **allowed** in terms of the directions indicated hereinabove.

20. Pending applications shall be **disposed off** accordingly.

(Jai Kumar Pillai)
Judge

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