

(2025) 11 RAJ CK 1806

In the Rajasthan High Court, Jodhpur Bench

Case No : Civil Writ Petition No. 8162 Of 2020

Harjeet Singh

APPELLANT

Vs

Oriental Bank Of Commerce

RESPONDENT

Date of Decision : 24-11-2025

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 226, 300(A)

Code of Civil Procedure, 1908 — Order 33 Rule 1, Order 33 Rule 10

Citation : (2025) 11 RAJ CK 1806

Hon'ble Judges : Farjand Ali, J

Bench : Single Bench

Advocate : Dilshad Sherani, Deepak Vyas, Jagdish Vyas

Final Decision : Allowed

Judgement

Farjand Ali, J

1. By way of filing this writ petition under Article 226 of the Constitution of India, the petitioner has assailed the action of the respondents in denying compassionate appointment to the dependent of the deceased employee, alleging violation of Articles 14, 16 and 300-A of the Constitution of India. The grievance of the petitioner is that the impugned orders dated 01.10.2019 and 07.03.2020 passed by Respondent No. 2 suffer from arbitrariness and are contrary to the principles of natural justice, fair play and equity.

2. That the father of the petitioner, Shri Darshan Singh, was serving as an Assistant Manager in the respondent bank and expired on 17.01.2020 during service due to ailment, as evidenced by the identity card, certificate issued by Jan Seva Hospital dated 22.02.2019, and death certificate dated 26.01.2019 (Annexure-1); that since the deceased employee was the sole earning member and the petitioner's entire family was dependent on his income, the petitioner, who possesses a B.A. degree, submitted an application in the prescribed proforma for compassionate appointment along with requisite documents

(Annexure-4); that respondent No.2, vide communication dated 01.10.2019, informed that the petitioner's request for compassionate appointment was considered but not acceded to by the competent authority on the ground that the family was not found to be in indigent or penurious condition and further stated that the legal heirs of the deceased were not eligible for ex-gratia payment in lieu of compassionate appointment (Annexure-5); that it is also on record that the respondent bank recovered from the gratuity dues of the deceased an amount of Rs. 6,99,921.26 towards OD Limit, Rs. 1,27,846/- and Rs. 24,265/- towards vehicle loans, and Rs. 6,253/- towards festival loan, as reflected in the family pension document (Annexure-6); that thereafter, the petitioner's mother, Smt. Kamaljeet Kaur, submitted a representation dated 03.10.2019 before respondent No.2 asserting that the aforesaid recoveries had been made from the gratuity dues, and further stating that the family had also taken personal loans of Rs. 5,00,000/- from Bajaj Finance, Rs. 2,50,000/- from Muthoot Finance, and Rs. 7-8 lakhs from the market for the treatment of the deceased employee, and after clearing all dues, nothing remained with them, and that they neither owned a house nor had any source of livelihood except the unemployed petitioner, therefore seeking reconsideration of the request for compassionate appointment (Annexure-7); that respondent No.2, however, vide communication dated 07.03.2020, reiterated that the competent authority did not find the family to be in indigent or penurious condition and thus did not accept the request (Annexure-8); and that being aggrieved by the communications dated 01.10.2019 and 07.03.2020, the petitioner has preferred the present writ petition challenging the same.

3. Counsel for the petitioner submits that the respondent No.2 has committed a grave error apparent on the face of record by rejecting the petitioner's claim for compassionate appointment vide orders dated 01.10.2019 and 07.03.2020. It is urged that despite the deceased employee Shri Darshan Singh being the sole earning member, the respondents wrongly concluded that the family was not in indigent circumstances. The retiral benefits cited by the respondents cannot justify rejection, as substantial amounts were deducted towards various bank loans, personal loans and medical expenses, leaving the family with no subsistence; the family is living in a rented house and the petitioner is unemployed. It is argued that the impugned action is arbitrary, violative of Articles 14, 16 and 300-A of the Constitution, and defeats the very object of compassionate appointment meant to alleviate immediate financial distress. Hence, the impugned orders deserve to be quashed and the respondents be directed to grant compassionate appointment to the petitioner.

4. Counsel for the respondents submits that although the petitioner applied for compassionate appointment on 19.03.2019, the case was examined strictly under the Scheme for Appointment on Compassionate Grounds approved by the erstwhile OBC with effect from 05.08.2014. The application was placed before the Competent Committee, which, after considering all relevant factors, including the deceased employee's age and length of service (over 37 years), substantial

terminal benefits received by the family amounting to approximately ₹ 34.66 lakhs, ongoing family pension, absence of dependent daughters, and the petitioner's age, marital status, and educational background found that the family was not in indigent or penurious condition to qualify under the Scheme. It is submitted that the petitioner has concealed material facts, and merely

projecting liabilities cannot confer eligibility. The request was therefore rightly rejected on 01.10.2019 and again upon reconsideration on 07.03.2020. Since compassionate appointment is not a vested or enforceable right and can be granted only in cases of genuine financial distress, the impugned orders call for no interference under Article 226 of the Constitution.

5. Heard learned counsels present for the parties and gone through the materials available on record.

6. This Court finds it imperative to first delineate the core issue arising for determination, whether the respondents were justified in rejecting the petitioner's claim for compassionate appointment solely on the ground that the family was "not indigent or penurious", notwithstanding the undisputed facts that (i) the deceased employee was the sole breadwinner, (ii) he remained under medical treatment for nearly four years prior to his death, (iii) substantial recoveries were made from the terminal dues, (iv) the family had incurred heavy liabilities to meet medical expenses, and (v) the family continues to reside in a rented accommodation without any independent source of subsistence.

7. Before adverting to the legality of the impugned orders, it is apposite to elucidate the expression "indigent", as the entire edifice of the rejection rests upon this singular term. Etymologically, "indigent" connotes a state of extreme deprivation, lacking the bare means of subsistence, or being unable to maintain oneself without assistance.

Jurisprudentially, the expression has acquired a narrow and technical meaning under Order XXXIII Rule 1 of the Code of Civil Procedure, where an indigent person is defined as one who is not possessed of sufficient means to pay the requisite court fee and who is not entitled to property worth one thousand rupees. This Court emphasises that this definition, essentially crafted for regulating access to civil justice, cannot be transposed mechanically into the domain of compassionate appointment, which is a socio-welfare measure intended to alleviate sudden penury arising from untimely death of a breadwinner.

8. Indeed, if the restrictive and literal connotation of "indigent" under Order XXXIII CPC is imported into employment jurisprudence, the consequences would be absurd and self-defeating. By its very nature, no person engaged in public or private employment, who receives a regular salary, allowances, statutory benefits or retiral dues can ever fall within such an extreme definition of indigence that equates to beggary or absolute pauperism. Extending this standard posthumously to the dependents of a deceased government employee is wholly unrealistic, for no class of salaried employees could ever satisfy such a

test. If such an interpretation is adopted, compassionate appointment would stand reduced to an illusory promise, creating a dichotomy wherein the Scheme ostensibly aims to provide immediate relief, yet imposes a threshold that no eligible family can practically meet. This dual standard renders the very object of compassionate appointment redundant. Thus, adopting "indigence simpliciter" as the determinative yardstick would render the Scheme otiose, and the categorical dismissal of the petitioner's claim merely on the ipse dixit that the "family is not indigent" appears, on the face of it, unsound, perfunctory and legally untenable.

9. The dichotomy becomes further manifest when the "Scheme for Compassionate Appointment" itself is examined. Rule 5, titled Eligibility, provides:

"5.1. The family is indigent and deserves immediate assistance for relief from financial destitution.

5.2. The applicant for compassionate appointment should be eligible and suitable for the post in all respects under the relevant Recruitment Rules."

10. A conjoint reading reveals that "indigence" under the Scheme cannot be interpreted in a vacuum or in the hyper-technical manner adopted in civil proceedings. Rather, the Scheme contemplates financial distress resulting from sudden cessation of income, not abject poverty akin to beggary. The very objective of compassionate appointment is to prevent destitution, not to wait till destitution is conclusively established. The rejection order, by insisting upon an unrealistically high threshold of indigence, defeats the benevolent purpose underlying Rule 5.

11. Even more significantly, Rule 10 of the Scheme incorporates an explicit legislative recognition that existence of an earning member does not automatically disqualify the family. Rule 10 reads:

"10.1. In deserving cases, even when there is already an earning member in the family, a dependent family member shall be considered for compassionate appointment ...

having regard to the number of dependents, assets and liabilities left by the employee...

10.2. If the earning member is not supporting the family, extreme caution shall be exercised in ascertaining economic distress to ensure that the facility is not circumvented."

12. Thus, the Scheme itself proceeds on the assumption that a family may still be in financial distress despite having an earning member. Consequently, the very architecture of Rule 10 negates the respondents' premise that the petitioner's family must first prove its indigence in the strict sense. If compassionate appointment can be granted even where an earning member exists, then rejection on the basis that the family is "not indigent" becomes logically incoherent and legally specious.

13. In the present case, the material placed on record indicates that the deceased employee was in prolonged medical treatment for nearly four years, compelling the family to incur substantial debts from formal lenders as well as private sources. A large portion of the terminal benefits, ordinarily considered a buffer against financial hardship, stood consumed by mandatory recoveries towards overdraft, vehicle loan, festival loan and other dues. The family admittedly does not own a house, resides on rent, and its only adult dependent (the petitioner) remains unemployed. These circumstances, taken cumulatively, demonstrate not merely financial strain but a pattern of precipitated financial vulnerability, directly attributable to the untimely demise of the breadwinner.

14. The respondents' reliance on the quantum of terminal dues, bereft of context, is misplaced. The law is settled that terminal benefits cannot be treated as perennial income, nor can they be used as a rigid metric to deny relief, particularly when liabilities, medical expenses, and compulsive recoveries have consumed most of such benefits. If terminal dues, pension, or gratuity payments are treated as a source of livelihood of the family, and if such factors are made determinative, then no family of any public servant would ever qualify for compassionate appointment, since every such family invariably receives some amount towards ex-gratia, pension, insurance, and similar statutory dues. The mechanical conclusion that the family "is not indigent", without a holistic appreciation of liabilities, household expenses, medical debt and lack of sustained income, reflects a non-application of mind and is inconsistent with the humanitarian objective of compassionate appointment.

15. Moreover, compassion cannot be reduced to an exercise in arithmetic. The constitutional requirement of fairness, flowing from Articles 14, 16 and 300-A—obligates the authority to examine whether the family is reasonably able to sustain itself after the sudden loss of the breadwinner. The impugned orders, however, suffer from stereotyped reasoning, absence of contextual analysis, and an excessively narrow approach inconsistent with the protective purpose of the Scheme.

16. This Court is therefore constrained to observe that the respondents have misconstrued the term "indigent", adopted a rigid and flawed standard, and failed to appreciate that the real test under compassionate appointment is not whether the family has become destitute, but whether the dependent was financially reliant on the deceased employee and whether the family faces immediate hardship due to the cessation of his income. The Scheme consciously aims at preventing "starvation-like" conditions, not at waiting for such conditions to materialise.

17. In light of the above analysis, this Court finds that the impugned communications dated 01.10.2019 and 07.03.2020 are unsustainable, having been passed on an erroneous premise, bereft of proper inquiry into liabilities, and inconsistent with the spirit of the Scheme.

18. Accordingly, the instant writ petition is allowed. The impugned orders dated 01.10.2019 and 07.03.2020 passed by Respondent No. 2 are hereby set aside. The matter is remanded to the competent authority to reconsider the petitioner's case afresh, strictly in accordance with the governing Scheme, keeping in view the correct legal parameters for determining "indigence", including the financial liabilities of the family, the prolonged illness of the deceased employee, the recoveries effected from terminal dues, and the overarching objective of compassionate appointment, which is to provide immediate succour to a family in financial destitution following the sudden demise of the sole earning member. While undertaking this exercise, the competent authority shall also examine whether the applicant is eligible and suitable for the post in all respects under the relevant Recruitment Rules. These aspects shall be duly considered while passing a fresh, reasoned order.

19. The competent authority shall pass a reasoned and speaking order within four weeks from the date of receipt of a certified copy of this judgment and upon finding the petitioner eligible for compassionate appointment, an order to that effect shall be passed forthwith.