

(2009) 07 MAD CK 0490

In the Madras High Court

Case No : Writ Appeal No. 396 of 2009 and M.P. No. 1 of 2009

Reserve Bank of India

APPELLANT

Vs

N. Kanniammal

RESPONDENT

Date of Decision : 30-07-2009

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (2009) 6 MLJ 664

Hon'ble Judges : R. Subbiah, J; P.K. Misra, J

Bench : Division Bench

Advocate : R. Krishnamurthy for T. Poornam, for the Appellant; S. Anil Sandeep, for the Respondent

Judgement

P.K. Misra, J.—The present appeal is filed by the Reserve Bank of India against the order of the learned single Judge in W.P. No. 5957 of 2001, wherein the learned single Judge, while allowing the writ petition filed by the present Respondent, had issued a direction to the present appellants to provide compassionate appointment to the son of the present Respondent as Class-IV employee.

2. The facts and circumstances of the case are as follows:

The husband of the writ petitioner, who was employed under the Reserve Bank of India, died in harness on 20.6.1991 leaving behind the widow - writ petitioner, one minor son and two minor daughters. The writ petitioner filed an application on 4.9.1991 requesting for appointment of her son in the Bank on compassionate ground. The Bank by its letter dated 7.9.1991, advised the writ petitioner to file appropriate application after the son becomes major. Subsequently, on 15.4.1994, after the son of the writ petitioner had attained majority, she made a fresh representation to the Bank for giving employment to her son on compassionate ground by referring to earlier application dated 4.9.1991 and the reply of the Bank, dated 7.9.1991. With reference to the above representation, the Bank called upon the writ petitioner to furnish particulars and apparently vide

letter dated 10.5.1994, details were furnished. Along with such letter, a written memo was furnished by the son of the writ petitioner requesting for appointment and undertaking to look after the family members. While the matter stood thus, the Reserve Bank of India formulated a Scheme relating to appointment on compassionate ground, which envisaged offer of employment to the widow of the concerned employee of the Bank or payment of lumpsum amount as ex-gratia payment. On the basis of such Scheme, the Bank communicated to the writ petitioner vide letter dated 20.6.1995 that the request for appointment of her son on compassionate ground cannot be entertained in view of the Scheme adopted by the Bank. However, it was indicated that the Bank was prepared to offer lumpsum ex-gratia payment of Rs. 75,740/-. The writ petitioner issued a reply stating that death of her husband had taken place on 20.6.1991 and, therefore, the application should be considered on the basis of the Rules applicable at the time of such death. It was further indicated that she herself was not in a position to take up any employment as she was required to take care of her handicapped daughter and again requested for giving employment to her son. The Bank by its further correspondence dated 16.4.1997 reiterated the earlier position and expressed its inability to offer any employment to the son on the basis of compassionate appointment, but advised the writ petitioner to accept the lumpsum ex-gratia amount of Rs. 75,740/-. Undaunted by such refusal, the writ petitioner made a further representation on 3.4.2000 for employment of her son on compassionate ground, which was again rejected by the Bank vide correspondence dated 8.6.2000. Thereafter, the writ petitioner filed a representation dated 15.9.2000 by referring to the decision dated 28.9.1999 in W.P. No. 8284 of 1995 (P. Vijayalakshmi v. Reserve Bank of India) and made a request for re-consideration of the matter and to give employment to her son as similar matter had been decided by the High Court. Such request was again rejected by the Bank vide letter dated 19.9.2000 and the writ petitioner was again advised to apply for payment of the lumpsum. Ultimately, W.P. No. 5957 of 2001 was filed by the wife of the deceased employee praying that the letter dated 19.9.2000 should be quashed and direction should be issued to the Bank for giving employment to the son of the writ petitioner on compassionate ground.

3. In the writ petition, the Bank took the stand that at the time of initial application, the son of the writ petitioner being a minor was not at all eligible to be considered and at that time the widow of the employee had been advised to file fresh representation after attainment of majority by the son. It was specifically indicated that such application would be considered according to the Scheme applicable at the time of application. It was further highlighted that the question of formulating a particular scheme was under active consideration of the Bank and, therefore, many applications in respect of the employees who had died after 1.1.1992 had been kept pending for being finalised in accordance with the Scheme under preparation and as per such Scheme formulated on 28.10.2004, the opportunity of employment can be offered only to the widow of

the deceased employee and, in lieu of employment, ex-gratia payment can be made and since the son of the writ petitioner cannot be considered on the basis of such Scheme, the application had been specifically rejected in the year 1995. There was no right available to the son of the deceased to claim employment and moreover the writ petition was filed in the year 2001, whereas the death had occurred in 1991 and the application had been rejected in 1995 and, therefore, the writ petition was liable to be dismissed on the ground of laches.

4. Learned single Judge by relying upon the earlier decision of the High Court in W.P. No. 8284 of 1995, negated the contention of the writ petitioner and had issued a specific direction to the Bank to give employment to the son of the writ petitioner. The present writ appeal is filed against such direction issued by the learned single Judge.

5. Learned Senior Counsel appearing for the Bank has raised the following contentions:

(1) As per the Scheme, which was circulated in October, 1994, the opportunity of employment can be offered only to the widow of the deceased employee and, therefore, the Bank had rightly rejected the application of the widow regarding employment of her son on compassionate ground.

(2) The writ petition should have been dismissed on the ground of laches.

(3) At any rate, the learned single Judge erred in giving a positive direction to the Bank to give employment to the son of the writ petitioner, even though no such right was conferred either under the Scheme circulated on 28.10.1994 or even under the previous instructions.

(4) The Scheme for appointment on compassionate ground is framed only to enable the family members of the deceased to tide over the immediate need of the family members and since the death had occurred in 1991 and the application had been rejected in 1995, issuing a direction for giving employment in 2009, after passage of about 18 years, does not subserve the purpose of the Scheme.

6. Learned Counsel appearing for the respondent / writ petitioner, on the other hand, supported the reasonings given in the judgment and has submitted that in view of the peculiar facts and circumstances of the case, the order passed by the learned single Judge should be upheld.

7. Counsels for both the parties have cited several decisions of the Supreme Court which would be noticed in due course. But, before advertent to such decisions, it may be necessary to refer to the relevant correspondence and the provisions contained in the Scheme.

8. The Bank has placed reliance upon the Circular dated 28.10.1994. In substance, such Scheme provides for either payment of lumpsum ex-gratia to the members of the bereaved family or appointment in the Bank for the spouse

of the deceased employee as per the norms laid down by the Bank. If the option is for payment of lumpsum ex-gratia, such amount may be sanctioned by the concerned Manager of the Branch. However, if applications are received from the spouses seeking appointment in the Bank, such applications are required to be forwarded to the Central Office along with all necessary particulars. The Scheme makes it clear that the application for seeking appointment for any member of the family other than the spouse ought to be rejected. So far as Clause 7 of the scheme relating to appointment being relevant, is extracted hereunder:

7. There will be no deferment of employment on any ground. However, old cases where deferment was granted for employment of a ward will be treated as exception and dealt with as per the Bank's advice then given.

The scheme contemplated that "cases which are kept pending for decision will be decided as per the above Scheme.

9. Though the learned Counsel for the Bank has submitted that before the aforesaid Scheme there was no other specific Scheme applicable to the Bank, learned Counsel for the respondent / writ petitioner has produced a Circular No. 15, dated 21.7.1988, wherein there is reference to earlier Circular D.A. No. Rec.772/2(A)-85/86, dated 1st November, 1985, a copy of whereof has been subsequently produced by the Bank. The letter dated 1.11.1985 inter alia indicates as under:

2. In view of the above, we advise that in future while referring such cases the offices/departments may note to include the following details/documents invariably in the relevant applications:

- i. service file of the late employee with up-to-date reports;
- ii. cause of death of the employee and a copy of his death certificate;
- iii. particulars of other family members with regard to their income, if any whether any of the family members is already in the Bank's service;
- iv. details of terminal benefits paid/to be paid and name of the beneficiary thereto;
- v. certified true copies in support of applicant's age, educational qualification; and
- vi. vacancy position in the cadre for which the applicant is being considered.

3. Offices may appreciate that it will be conducive to speedy disposal of applications at Central Office if on obtention of the relevant details/documents as desired above, they note to add a line by way of specific recommendation based on a preliminary scrutiny of the relevant application justifying the need for compassion particularly in the case of families that are apparently not in hard financial straits.

10. The subsequent circular dated 21.7.1988, after referring to the earlier

circular dated 1.11.1985, advised all the Managers and Departmental Heads in the following manner:

...To tide over this undesirable situation, it has been decided that offices / departments may hereafter furnish to us all the relevant particulars in enclosed proforma, duly supported by authenticated copies of the documents mentioned in the above circular wherever necessary. While forwarding such requests, the Manager / Departmental Head should invariably give his specific recommendations based on a careful scrutiny, justifying the need for compassion, particularly in the cases of families that are apparently well off.

The Circular further provided:

3. We add for further guidance that on receipt of the Central Office approval the offices may identify the candidate before offering the appointment and again check that no other member of the family of the deceased employee is already in the service of the Bank. If the widow of the deceased has recommended one of her children for compassionate appointment a declaration from her and any other major child in the family may be obtained to the effect that they would not stake claim for such appointment in future on compassionate grounds.

The annexure to such Circular contain the pro-forma in which various particulars of the deceased employee were required to be furnished.

11. Relying upon such Circular dated 21.7.1988, learned Counsel appearing for the writ petitioner has submitted that before introduction of this Scheme on 28.10.1994, the aforesaid Circular was required to be followed. It is therefore submitted by him that since the employee died in harness on 20.6.1991 and since the subsequent Scheme dated 28.10.1994 was avowedly made applicable to death which had taken place after 1.1.1992, the representation made by the writ petitioner for employment of her son on compassionate grounds should have been considered in accordance with the Circular which was applicable at the time of death of the employee and such representation should not have been rejected on the basis of the Scheme which was formulated much later.

12. If the Circular dated 28.10.1994 is made applicable, obviously the representation of the present writ petitioner praying for employment of her son on compassionate ground could not have been countenanced as the Scheme dated 28.10.1994 categorically envisages that the opportunity of employment on compassionate grounds can be availed only by the spouse of the deceased employee and in the alternative a lumpsum would be paid to the members of the bereaved family. Learned single Judge, however, has observed that this Scheme as such was not applicable, particularly in view of the provisions contained in Clause 7 of the Scheme which specifically envisage that there would be no deferment of employment on any ground, but old cases where deferment was granted for employment of a ward will be treated as exception and dealt with as per the Bank's advice then given.

13. At this stage, it would be appropriate to refer to the application and the advise given by the Bank. The application, dated 4.9.1991, made by the writ petitioner indicated that her elder son was aged 15 years and the two daughters were aged 12 and 11 years and she herself was not in a position to take employment as she was required to take care of her daughter who was physically handicapped. Therefore, it was requested by her ".... My eldest son Shri N. Kuppuswamy is aged 15 years only and is studying in X Standard. He will be completing his 18th year by 9th April 1994. Therefore, I intend to submit an application for appointment in the Bank for my eldest son Shri Kuppuswamy during April 1994.

I request you, Sir, to kindly consider my case sympathetically and permit me to prefer an application as above."

14. With reference to the aforesaid letter, the Bank by reply dated 7.9.1991, advised her to renew the request after her son attains majority, but in any case not later than 19th June, 1995. It was specifically indicated:

...In this connection, please note that this letter does not confer any right on any member of the family of the deceased employee to have compassionate appointment in the Bank nor does it form any commitment on the part of the Bank for offering such appointment at a future date. The application, if any, received will be examined in the light of the provisions of the Bank's Scheme of compassionate appointments in vogue at that point of time.

15. Thereafter, soon after the son of the writ petitioner attained majority, the writ petitioner made a fresh application on 15.4.1994 requesting that appointment may be given to her son. On 28.4.1994, the following reply was given by the Bank:

With reference to your letter dated 15th April 1994, we advise you to furnish the particulars as required in the enclosed proforma at an early date to enable us to take necessary action in the matter.

and apparently by further communication dated 10.5.1994, the writ petitioner furnished particulars in the pro-forma for necessary action.

16. Though the learned Counsel for the writ petitioner claims that such particulars were furnished in the pro-forma as per the annexure to the Circular dated 21.7.1988, on a careful comparison of the two pro-formas, we find that the particulars were in fact furnished in a different proforma. However, the details furnished were apparently similar, but not exactly the same.

17. Be that as it may, by communication dated 20.6.1995, the Bank gave a categorical reply to the writ petitioner to the following effect:

Consequent to the review of the Bank's Policy towards compassionate appointment, the facility of compassionate appointment is now restricted to the spouse of the deceased employee. Bank is, therefore, unable to offer

appointment to your son Shri Kuppusamy as requested by you. However, the ex-gratia payment which works out to Rs. 75,740/- (Rupees seventy five thousand seven hundred and forty only).

18. Undaunted by the negative reply of the Bank, the writ petitioner sent a letter dated 20.7.1995, wherein inter alia it was indicated:

...In this connection I submit that the Bank has to take into consideration of the rules and the agreement made with the Union as on the date of death of my husband i.e. 20.6.91. According to that time of the agreement made with the Union and the rules in force on that date provide the appointment facility of Compassionate appointment. The rules available on the crucial date (death of my husband) has to be taken into account which is also a natural justification acceptable by a Court of Law.

19. The writ petitioner again requested for giving employment to her son. The above request was again turned down by the Bank by reply dated 25.8.1995, wherein it was indicated that the son was ineligible earlier and, therefore, the application was required to be considered in accordance with the Scheme subsequently adopted by the Bank. Thereafter, the writ petitioner after remaining quiet for about five years, renewed her application seeking for employment for her son on compassionate ground by a representation dated 3.4.2000, obviously being inspired by the fact that the Bank had apparently appointed the son of another employee on the basis of the direction issued by the court. This request was promptly rejected by the Bank by letter dated 8.6.2000. The writ petitioner made a further representation dated 15.9.2000 reiterating her earlier request and specifically inviting the attention of the Bank regarding appointment of Shri Pothana Prabhu, on the direction of the High Court, Madras, in W.P. No. 8284 of 1995. This request was again turned down by the Bank by letter dated 19.9.2000. Thereafter, the writ petitioner filed the writ petition in March, 2001 for quashing the communication dated 19.9.2000 and for issuing a direction to the Bank to give employment to her son.

20. Learned single Judge has allowed the writ petition and issued a direction to the Bank to offer employment to the son of the writ petitioner. In coming to the aforesaid conclusion, the learned single Judge has placed strong reliance upon an earlier decision of a single Judge in W.P. No. 8284 of 1995 disposed of on 28.9.1998. According to the learned single Judge since the facts in the earlier case were similar to the facts of the case on hand, the said decision could be followed. The learned single Judge brushed aside the submission of the bank relating to laches on the ground that between 20.6.1995, when the Bank had rejected the claim, and 19.9.2000, when the Bank again turned down the request, the writ petitioner had also made a representation on 3.2.1997, which had been replied on 16.4.1997 and, therefore, it cannot be said that there was any laches, as according to the learned single Judge it cannot be said that after 1995 till filing of the writ petition, the petitioner had slept over the matter.

21. Learned Senior Counsel for the appellants has submitted that since the main object behind the Scheme for employment on compassionate ground is to enable the family to tide over the immediate financial stringency on account of the death of the bread-winner, the entire purpose of such Scheme would be lost if the direction for appointments on compassionate grounds were issued long after the death of the concerned employee. In this connection, it has been submitted by the learned Senior Counsel that in fact the death had taken place in the year 1991, when the son of the deceased being a minor was not at all eligible and even though the present writ petitioner was advised that she can make appropriate application after the son attains majority, it was made clear that such application would be considered in accordance with the Scheme in vogue at the relevant time. By the time the subsequent formal application was taken up for consideration, the Scheme dated 28.10.1994 had become effective. Such Scheme specifically envisaged that the offer of employment can be availed only by the widow of the deceased and not by any other person. In the alternative it was only financial grant of lumpsum amount was available. It is further contended that at any rate the application was categorically rejected in June 1995, whereas the writ petition was filed in the year 2001 and was disposed of only in February, 2009 by issuing a direction for giving employment. In other words, even though the death had taken place in 1991, a direction for employment was given after 18 years, which is contrary to the basic principle providing employment on compassionate grounds. Learned Senior Counsel has cited before us several decisions of the Supreme Court, which would be noticed in due course. It is further submitted that the applications, which had been made for compassionate appointment in respect of the persons dying in harness after 1.1.1992, had been kept pending as a formal Scheme was on the anvil and even though, in the present case, the employee had died before January, 1992, the son was ineligible at that time being minor and subsequently when the application was made, like other applications, which had been made, it had been kept pending in view of the impending Scheme. Under these circumstances, issuing a direction for appointment on compassionate grounds is not only contrary to the Scheme but also to several decisions of the Supreme Court. Learned Senior Counsel has further submitted that the unreported decision of the learned single Judge, which has been followed in the present decision, was clearly distinguishable inasmuch as the said writ petition was filed in the year 1995, soon after the representation for employment on compassionate grounds had been rejected, whereas, in the present case, the writ petitioner has filed the writ petition after a long lapse of six years.

22. Learned Senior Counsel appearing for the writ petitioner / respondent, on the other hand, submitted that the Scheme, dated 28.10.1994, would not have been made applicable to the application made by the writ petitioner for appointment on compassionate grounds inasmuch as the first application was made in the year 1991 and even the second application was made on 15.4.1994, before the Scheme had been formulated and, therefore, such application should have been

considered keeping in view the guidelines applicable before the introduction of the Scheme dated 28.4.1994.

23. At this stage, before considering the other aspects, we think it would be appropriate to notice the various Supreme Court decisions.

24. In Life Insurance Corporation of India Vs. Mrs. Asha Ramachandra Ambekar and another, , it was observed:

10. ...The High Courts and the Administrative Tribunals cannot confer benediction impelled by sympathetic consideration.

...

17. ...Thus, apart from the direction as to appointment on compassionate grounds being against statutory provisions, such direction does not take note of this fact. Whatever it may be, the Court should not have directed the appointment on compassionate grounds. The jurisdiction under mandamus cannot be exercised in that fashion. It should have merely directed consideration of the claim of the second respondent....

25. In Umesh Kumar Nagpal Vs. State of Haryana and Others, , it was observed as follows:

2. The question relates to the considerations which should guide while giving appointment in public services on compassionate ground. It appears that there has been a good deal of obfuscation on the issue. 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 nor 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

Classes 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 favourable 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 employment which are suddenly upturned.

3. Unmindful of this legal position, some Governments and public authorities have been offering compassionate employment sometimes as a matter of course irrespective of the financial condition of the family of the deceased and sometimes even in posts above Classes III and IV. That is legally impermissible.

4. It is for these reasons that we have not been in a position to appreciate judgments of some of the High Courts which have justified and even directed compassionate employment either as a matter of course or in posts above Classes III and IV. We are also dismayed to find that the decision of this Court in *Sushma Gosain v. Union of India* has been misinterpreted to the point of distortion. The decision does not justify compassionate employment either as a matter of course or in employment in posts above Classes III and IV....

...

6. For these very reasons, the compassionate employment cannot be granted after a lapse of a reasonable period which must be specified in the rules. The consideration for such employment is not a vested right which can be exercised at any time in future. The object being to enable the family to get over the financial crisis which it faces at the time of the death of the sole breadwinner, the compassionate employment cannot be claimed and offered whatever the lapse of time and after the crisis is over.

26. In *Union of India (UOI) and Others Vs. Bhagwan Singh*, , even though the Administrative Tribunal had given a direction for appointment on compassionate grounds in respect of a minor son, who had made the application after attaining majority, the Supreme Court had set aside such decision of the Tribunal by observing that compassionate appointment is not meant to be given long after the event, namely, the death of the employee

27. In *State Bank of India and Another Vs. Somvir Singh*, , after referring to the aforesaid decision and the decision reported in *Union Bank of India and Others*

Vs. M.T. Latheesh, , it was observed:

10. There is no dispute whatsoever that the appellant Bank is required to consider the request for compassionate appointment only in accordance with the scheme framed by it and no discretion as such is left with any of the authorities to make compassionate appointment dehors the scheme. In our considered opinion the claim for compassionate appointment and the right, if any, is traceable only to the scheme, executive instructions, rules, etc. framed by the employer in the matter of providing employment on compassionate grounds. There is no right of whatsoever nature to claim compassionate appointment on any ground other than the one, if any, conferred by the employer by way of scheme or instructions as the case may be.

28. In State of Haryana and Another Vs. Ankur Gupta, , it was observed:

6. As was observed in State of Haryana v. Rani Devi it need not be pointed out that the claim of the person concerned for appointment on compassionate ground is based on the premise that he was dependent on the deceased employee. Strictly, this claim cannot be upheld on the touchstone of Article 14 or 16 of the Constitution of India. However, such claim is considered as reasonable and permissible on the basis of sudden crisis occurring in the family of such employee who has served the State and dies while in service. That is why it is necessary for the authorities to frame rules, regulations or to issue such administrative orders which can stand the test of Articles 14 and 16. Appointment on compassionate ground cannot be claimed as a matter of right. Die-in-Harness Scheme cannot be made applicable to all types of posts irrespective of the nature of service rendered by the deceased employee. In Rani Devi case it was held that the scheme regarding appointment on compassionate ground if extended to all types of casual or ad hoc employees including those who worked as apprentices cannot be justified on constitutional grounds. In LIC of India v. Asha Ramchandra Ambekar it was pointed out that the High Courts and Administrative Tribunals cannot confer benediction impelled by sympathetic considerations to make appointments on compassionate grounds when the regulations framed in respect thereof do not cover and contemplate such appointments. It was noted in Umesh Kumar Nagpal v. State of Haryana that as a rule, in public service appointments should be made strictly on the basis of open invitation of applications and merit. The appointment on compassionate ground is not another source of recruitment but merely an exception to the aforesaid requirement taking into consideration the fact of the death of the employee while in service leaving his family without any means of livelihood. In such cases the object is to enable the family to get over sudden financial crisis. But such appointments on compassionate ground have to be made in accordance with the rules, regulations or administrative instructions taking into consideration the financial condition of the family of the deceased.

29. In State of Jammu & Kashmir and Others Vs. Sajad Ahmed Mir, , it was observed:

17. ...When the Division Bench decided the matter, more than fifteen years had passed from the date of the death of the father of the applicant. The said fact was indeed a relevant and material fact which went to show that the family survived in spite of the death of the employee....

30. The observation made in Umesh Kumar Nagpal's case was again followed in Hindustan Zinc Ltd. Vs. Bhagwan Singh Bhati and Others, .

31. In a very recent unreported decision of a Division Bench of this Court in W.A. No. 1221 of 2008 (Director of School Education, Chennai and 2 Ors. v. Fanny Susil Kumari), disposed of on 11.6.2009, almost a similar question had cropped up, wherein it was observed as follows:

2. The father of the respondent was working as a Headmaster in a school situated in Chengam Taluk in Tiruvannamalai District. He died on 01.06.1991. It appears that the mother of the respondent applied for a job, but she did not get it. The respondent herself applied sometime in the year 2001, which application was kept pending. In the meantime, the respondent got married in November, 2004. Her application was rejected on the ground of her marriage. Being aggrieved by the said order, the respondent filed the writ petition, which came to be allowed. It was pointed out before the learned single Judge that the respondent got married in November 2004 and she was no longer supporting the family, which she ought to be supporting. It was on that ground that the learned single Judge found that the submission was untenable and therefore, directed the Department to reconsider the respondent's claim for compassionate appointment. Being aggrieved by the said order, the appellants/respondents have come forward with this appeal.

3. Mr. Manoj Seevatasan, learned Counsel appearing for the respondent submits that merely because the respondent got married that cannot be a disqualification for getting an appointment on compassionate ground. We see some force in the said submission. However, on the facts of the case, what we find is that her father died in the year 1991. May be her mother applied earlier. But ultimately the respondent applied for a job in the year 2001 i.e., nearly ten years after the death of her father. She got married in the year 2004. All these facts go to show that the urgency and difficulty that was there on account of the death of the father of the respondent did not remain compelling for the State to provide a job to the family. Compassionate appointment is to tide over the immediate difficulties faced by the family on account of the death of the bread winner of the family. In the instant case, as seen from the fact, nearly 10 years after the death of her father, the respondent applied for a job. She got married later. Though the reason canvassed before the learned single Judge may not be stated to be a very good reason, on the facts of this case there was no longer any urgency and justification to provide for compassionate appointment.

4. Compassionate appointment is an exception to the rule namely, that public employment has to be offered to all by applying uniform yardstick. It is an

exception for the people who are in difficulty and therefore, when that difficulty subsists such appointment has to be considered. The learned single Judge obviously erred in granting a direction to reconsider the claim of the respondent, which, in our opinion, does not arise in any manner.

32. A perusal of the aforesaid decisions make it clear that a direction regarding making appointment on compassionate grounds can be issued strictly in accordance with the Scheme applicable and not because of any other sympathetic consideration de hors the Scheme applicable. Moreover, the main object under lying the policy of making appointment on compassionate grounds is to enable the family to tide over the immediate financial stringency and such object itself would be defeated if direction regarding compassionate appointment is issued long after the event has occurred. In the present case, as already noticed, the direction regarding employment has been given after about 18 years. Moreover, in the present case, there has been a positive direction regarding offering employment on compassionate grounds, though the decision on which the learned single Judge relied upon had merely directed the Bank to consider the question of appointment on compassionate grounds on the basis of the policy which was applicable at the time when the application for appointment on compassionate grounds had been made. It has to be kept in view that in the said case the writ petition itself has been filed soon after the rejection and necessary direction for reconsideration had been issued within a reasonable period.

33. Law is well settled that in service jurisprudence, a person affected should approach the Court within a reasonable time after the cause of action arises and making repeated representations cannot give rise to successive cause of action. In the present case, the application for appointment on compassionate grounds had been rejected in June, 1995, itself and a subsequent representation was also rejected within two to three months. The petitioner, instead of filing a writ petition immediately as in the other case, has waited for another six years and it is obvious that his subsequent representations were made in 2000 because of the order passed by the High Court in W.P. No. 8284 of 1995. In these circumstances, in our considered opinion, the writ petition must be held to be hit by the principle of laches and acquiescence.

34. Learned Counsel for the respondent / writ petitioner has placed strong reliance upon a decision of the Supreme Court reported in AIR 2008 SC 39 (Mohan Mahto v. Central Coal Field Ltd. and Ors.). The said decision is clearly distinguishable inasmuch as the claim for compassionate appointment was made on the basis of settlement between the Management and the Workman, which obviously had the status of a legal binding principle. Under these circumstances, when the petition had been rejected only on untenable ground, the Supreme Court had upheld the claim of the applicant for appointment on compassionate grounds.

35. If the present application is to be considered in the light of the Scheme dated

28.10.1994, obviously the son of the present writ petitioner cannot have any locus standi or claim inasmuch as under the Scheme now available, only the spouse can be offered employment on compassionate grounds. If the contention of the writ petitioner that the application should have been considered in the light of the Scheme applicable at the time of death, obviously the son of the present writ petitioner did not have any right at that stage inasmuch as he was merely a minor and he has been advised that his application after attaining majority could be considered only in accordance with the Scheme applicable. Even otherwise assuming that the application would have been considered between April 1994 and October 1994, before the Scheme became applicable, such application having been rejected in June, 1995, there was no justification for the writ petitioner to wait for another six years for the purpose of filing the writ petition. This is more so in view of the categorical decisions of the Supreme Court in several cases that appointment on compassionate grounds cannot be offered after long lapse of time. Since all these aspects have not been considered by the learned single Judge, we feel constrained to quash the order passed by the learned single Judge.

36. In all the replies to the various representations, the writ petitioner had been offered payment of ex-gratia by the Bank, but the writ petitioner had not accepted such amount on the hope that an employment would be offered to her son. The bank had indicated that a sum of Rs. 75,740/- would be payable to the writ petitioner. However, since such amount has not been received, it is obvious that it has remained with the Bank. The above calculation was obviously made on the salary structure at the time of death of the employee. Since the matter has remained pending for a long period before the High Court and since the order of the learned single Judge is being set aside, we feel it would be more appropriate to pay the compensation by taking into consideration the present salary structure with a view to soften the blow.

37. Under these circumstances, we feel interest of justice would be served by issuing a direction to the Bank to pay a sum of Rs. 1,50,000/- as ex-gratia payment. Such amount may be paid within a period of thirty days from the date of receipt of a copy of this judgment.

38. Subject to the aforesaid direction, the appeal is allowed and the writ petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.