HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

MONDAY ,THE TWENTY EIGHTH DAY OF APRIL
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE THE ACTING CHIEF JUSTICE SUJOY PAUL
AND
THE HONOURABLE SMT JUSTICE RENUKA YARA

WRIT APPEAL NO: 269 OF 2025

Writ Appeal under clause 15 of the Letters Patent Appeal Preferred Against the Order Dated 30-07-2020 in W.P.No17220 of 2020 on the file of the High Court.

Between:

1. The Telangana State Power Generation Corporation, Rep. by its Chairman and Managing Director, Vidyut Souda, Hyderabad
2. The Chief General Manner (HR), Telangana State Power Generation Corporation, Vidyut Souda, Hyderabad
3. The Chief Engineer (0 and M), RTS Ramagundam. Kamifnagar District

...PETITIONERS

AND

Qumuruddin Khan, S/o. Late Sarfaraz Khan. Agd144 years, R/o. Q. No. AE23, C Colony Ramagundam, Karimnagar

...RESPONDENTS

IA NO: 1 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to condone the delay of 149 days in filing the Writ Appeal

IA NO: 2 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to dispense with filing of the original certified order copy in W.P. No. 17220 of 2020, dated 30-7-2024

IA NO: 3 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay the operation of the orders passed in W.P.No.17220 of 2020, Dated 30.07.2024

IA NO: 4 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to permit the Appellants to file the Additional Affidavit in WA No 269/2025

Counsel for the Appellant: SRI G. VIDYA SAGAR SENIOR COUNSEL REP Ms. K. UDAYA SRI

Counsel for the Respondents: Ms. B.V.N. SAVITH KUMAR FOR SRI G. V. SHIVAJI

The Court made the following: JUDGMENT

THE HON'BLE THE ACTING CHIEF JUSTICE SUJOY PAUL
AND
THE HON'BLE SMT. JUSTICE RENUKA YARA

WRIT APPEAL No.269 OF 2025

JUDGMENT: *(Per the Hon'ble the Acting Chief Justice Sujoy Paul)*

Sri G.Vidya Sagar, learned Senior Counsel appearing for Ms. K.Udaya Sri, learned counsel for the appellants and Ms. B.V.N.Savitha Kumari, learned counsel appearing for Sri G.V.Shivaji, learned counsel for the respondent.

2. With the consent finally heard.

3. In this *intra*-Court Appeal, the appellants assail the order of learned Single Judge dated 30.07.2024 passed in W.P.No.17220 of 2020 whereby the appellants/employer was directed to consider the case of the respondent/Writ Petitioner for compassionate appointment.

4. The appellants herein are the respondents and the respondent herein is the petitioner in W.P.No.17220 of 2020. For the sake of convenience, the parties hereinafter shall be referred to as they are arrayed in the above Writ Petition.

5. The brief facts necessary for adjudication of this matter are that the Writ Petitioner is the son of second wife of late Sarfaraz

Khan, Loco Driver/RTS, who died in harness on 10.09.1988. The Writ Petitioner's mother preferred an application seeking compassionate appointment on 22.06.1989. Thereafter, the Writ Petitioner after attaining the age of majority, preferred an application in August, 2002 to the General Manager of the respondents-Department seeking compassionate appointment. In this application, the Writ Petitioner himself disclosed his date of birth as 23.12.1974. Thereafter, the Writ Petitioner's mother preferred an application informing that W.P.No.15209 of 1990 was filed seeking compassionate appointment by Sri Ibrahim Khan, her step son, and the same was dismissed on 19.09.2000. Thus, by preferring a representation dated 16.08.2002 (Annexure P.13), a prayer was made to appoint the Writ Petitioner. The certificate issued by MRC dated Nil.12.1988 shows that the age of the Writ Petitioner is 14 years. Since there was a discrepancy in the age mentioned in the Writ Petitioner's application filed in August, 2002 and the MRO certificate, dated Nil.12.1988, the respondents by communication dated 23.12.2009 sent the Writ Petitioner to Medical Board for determination of his age. In turn, the Writ Petitioner's age was assessed by the Medical Board. By communication dated 25.01.2010, the Writ Petitioner's age was assessed as 37 years. The Medical Board's recommendation was

initially accepted by Director (HR) of A.P.Power Generation Corporation Limited, Vidyut Soudha, Hyderabad by communication dated 25.01.2010. The same was later on cancelled by Managing Director on 15.09.2011. Later, the Writ Petitioner's representation for grant of compassionate appointment was rejected by communication dated 15.09.2011.

6. Since no reasons were assigned in the said rejection order, it was set aside by this Court in W.P.No.745 of 2012, dated 03.09.2019, and the respondents were directed to consider the case of the Writ Petitioner afresh as per the prevailing policy and pass appropriate orders. In turn, the respondents passed detailed order dated 25.10.2019. This order became the subject matter of challenge in the instant Writ Petition i.e., W.P.No.17220 of 2020.

7. The case of the Writ Petitioner was that at the time his father died on 10.09.1988, he was aged about 16 years and the Medical Board's report was duly accepted by the Department. As per the Medical Board's report, he is entitled to be considered for compassionate appointment on attaining the age of 18 years. The learned Single Judge opined that after having sent the case of the Writ Petitioner for determination of the age to the Medical Board, it was no more open to the respondents to not to accept the same.

Resultantly, the learned Single Judge directed consideration of the Writ Petitioner's claim for compassionate appointment.

CONTENTIONS OF THE APPELLANTS (RESPONDENTS IN WRIT PETITION):

8. Learned Senior Counsel for the respondents submits that there is no reason to disbelieve the age disclosed by the Writ Petitioner in his representation dated Nil.08. 2002. Although, as an afterthought, the Writ Petitioner's mother tried to take a 'U' turn by contending that the said date of birth i.e. 23.12.1974 is erroneously disclosed. There is no reason for disbelieving the MRO certificate, dated Nil.12.1988. It also shows that the Writ Petitioner has not attained 18 years of age within two years from the date of death of his father. Learned Senior Counsel placed reliance on various circulars of the respondents and urged that as per the provisions prevailing, the Writ Petitioner could have preferred an application for compassionate appointment provided he attained the age of 18 years within two years from the date of death of his father. One such communication dated 21.02.1991, is relied upon.

9. Many other executive instructions in the same line were relied on by learned Senior Counsel for the respondents. Learned

Senior Counsel for the respondents submits that the Writ Petitioner for the first time approached this Court in 2012, whereas his father died in the year 1988 and as per the claim of the Writ Petitioner, he attained majority in 1990. Merely because the Writ Petitioner's brother filed a petition before this Court, nothing prevented him to file a petition with quite promptitude. The very purpose of granting of compassionate appointment is to provide immediate helping hand to the family in distress. The person who is approaching this Court after few decades is not entitled to get the benefit of compassionate appointment.

10. To bolster his submission, learned Senior Counsel placed reliance on two recent judgments of the Supreme Court reported in **State of West Bengal** v. **Debabrata Tiwari**[1] and **Canara Bank** v. **Ajithkumar G.K.**[2].

11. In nutshell, learned Senior Counsel for the respondents submits that the Writ Petitioner was not eligible as per the governing circulars, because he did not attain the age of 18 years within two years from the date of death of his father. This submission is based on the date disclosed by the Writ Petitioner himself as well as the report of the MRO. Looking from any angle,

[1] 2023 SCC OnLine SC 219
[2] 2025 SCC OnLine SC 290

the Writ Petitioner was not eligible to be considered for compassionate appointment. The delay in approaching the Court is also a relevant factor.

THE STAND OF THE RESPODNENT (WRIT PETITIONER):

12. Learned counsel for the Writ Petitioner submits that in the counter, the Writ Petitioner himself stated that since his brother filed WP.No.15209 of 1990, the matter was kept pending by the respondents. When that petition was decided, the Writ Petitioner's mother preferred a representation dated 16.08.2002 and the Department decided to refer the case of the Writ Petitioner for medical examination. By communication dated 23.12.2009, the recommendation of Medical Board was duly accepted by the Director on 25.10.2010. Although the Managing Director reversed the said decision, the fact remains that the Writ Petitioner filed WP.No.745 of 2012 and the same was allowed by setting aside the non-speaking order dated 15.09.2011 and by directing respondent No.1 therein to pass a fresh order. In turn, the impugned order dated 25.10.2019 was passed promptly. Thereafter, instant writ petition was filed and therefore, it cannot be said that there was any delay on the part of the Writ Petitioner.

13. The parties confined their arguments to the extent indicated above.

14. We have heard the parties at length.

FINDINGS:

15. Before dealing with the rival contentions, it is apposite to mention the relevant Memo dated 21.02.1991 as under:

> "According to Government Memo first a minor child may be allowed two years time from the date of demise of Government employee to become eligible for employment. But as per Board's memo, third cited if the application from the dependent considered either after attaining the age of 18 years or after acquiring the required qualification for appointment to suitable post.
>
> 2. The issue has been examined by the Board and it was decided to follow Government rules to allow two years time to minor dependents from the date of death/retirement on medically invalidation of Board employees while in service to become eligible for employment. However, the application for employment should be registered within one year from the date of death/retirement of employee on medically invalidated.
>
> 3. The above orders shall come into force from the date of issue of this Memo. The Chief Engineers, Elecy.,/ Superintending Engineers are requested to communicate this to all Board employees."
>
> (Emphasis Supplied)

16. During the course of arguments, the parties did not dispute that the eligibility for compassionate appointment needs to be dealt with as per the said Memo.

17. A plain reading of the Memo makes it clear that when an employee dies in harness, two years time is allowed to the minor dependents from the date of death to get appointment, provided his claim is registered within one year from the date of death of the employee.

18. In the instant case, admittedly the Writ Petitioner's mother preferred application within one year on 22.06.1989. Thus, the requirement of preferring application within the stipulated time was satisfied by mother of the Writ Petitioner.

19. As per the stand of the respondents, the Writ Petitioner could not satisfy two aspects on which interference is warranted. Firstly, it was projected that as per the Writ Petitioner in his application dated Nil.August, 2002, he himself mentioned the date of birth as 23.12.1974. The Mandal Revenue Officer's Certificate dated Nil.December, 1988 shows that the Writ Petitioner was 14 years of age in 1988. The Medical Board determined the age of the Writ Petitioner in the year 2009 as 37 years. Thus, his year of birth will be 1972. If all the three dates are considered one by one, the argument of the learned Senior Counsel for the respondents was that in view of the three situations, the Writ Petitioner was not of 16 years of age at the time of death of his father and could

not become eligible within two years from the said date. Since the Writ Petitioner was not eligible, the question of his consideration for compassionate appointment does not arise. The second hurdle against the Writ Petitioner as projected by the respondents was on the aspect of delay, which is narrated in arguments and reproduced by us hereinabove.

20. The learned counsel for the Writ Petitioner, on the other hand, submitted that the delay was properly explained and therefore, the same cannot be an impediment. Both the points are ponderable. The learned Single Judge assigned reasons for interference as under:

> "4. The respondents have, however, rejected the case of the petitioner for appointment on compassionate grounds vide letter dated 25.10.2019. The main reason for rejection is that the petitioner was under-aged at the time of death of the employee.
>
> 5. The learned counsel for the petitioner has drawn the attention of this court to the Memo dated 25.01.2010 issued by the respondents, wherein the report of the Medical Board dated 31.12.2009 confirming the candidate's age as 37 years as on 30.12.2009, i.e., as on the date of medical examination, has been taken into consideration and that it was decided to accept the age of the candidate as confirmed by the Medical Board. It is noticed that the respondents, in the impugned order, however have not given any plausible reason regarding the disagreement with the age determined by the Medical Board. The respondents have taken into consideration, the age i.e., date of birth as per the MRO certificate and thus proceeded to reject the petitioner's request for compassionate appointment.

> 6. This Court finds that since there was a discrepancy with regard to the age of the petitioner and since he has not studied more than 7th class and there were no school certificates available, the respondents deemed it fit and proper to refer the petitioner for medical examination and having accepted the age as determined by the Medical Board, it is not open to the respondents now not to consider the age determination given by the Medical Board.
>
> 7. The respondents are therefore directed to reconsider the case of the petitioner for compassionate appointment only in respect of fulfillment of other conditions other than the age and if he fulfils other conditions, then the respondents shall issue appointment to the petitioner in any existing vacancy according to his qualification and to pass appropriate orders therefor. The entire exercise shall be completed within a period of three months from the date of receipt of a copy of this order."

21. A minute reading of order of the learned Single Judge shows the reasons for interference as under:

(a) The Medical Board on 31.12.2009 opined that the Writ Petitioner's age is 37 years as on 30.12.2009, which was accepted by the Director, but while reversing the said report, the Managing Director has not assigned any reasons;

(b) The respondents have erred in taking into consideration the age mentioned in the Mandal Revenue Officer's certificate; and

(c) The respondents themselves referred the Writ Petitioner for medical examination and accepted the age as determined by the Medical Board. Thus, it is not open to the

respondents not to consider the age assessed by the Medical Board.

22. It is noteworthy that learned Single Judge has not considered the aspect of delay.

23. As noticed above, this is the second visit of the Writ Petitioner to this Court. In previous round of litigation in W.P.No.745 of 2012, the impugned order therein dated 15.09.2011 was set aside solely on the ground that it was non-speaking and cryptic order and hence, a fresh order was directed to be passed. Thereafter, the respondents passed the impugned order of rejection dated 25.10.2019.

24. In view of rival contentions, there are two facets highlighted in this matter. First relates to impact of delay in seeking compassionate appointment and in approaching this Court. Second is about the reliability of the document which can be determinative for the purpose of ascertaining the date of birth/age of the Writ Petitioner. We deem it proper to deal with the aspect of delay first.

25. In **Haryana State Electricity Board v. Hakim Singh**[3], the Apex Court held as under:

> "...Therefore, this Court held that it would not be justified in directing appointment for the claimants therein on compassionate grounds, fourteen years after the death of the government employee. That such a direction would amount to treating a claim for compassionate appointment as though it were a matter of inheritance based on a line of succession."

26. In **State of Jammu and Kashmir v. Sajad Ahmed Mir**[4], the Apex Court held that granting compassionate appointment after a lapse of considerable amount of time after the death of the government employee, would not be in furtherance of the object of a scheme for compassionate appointment.

27. In **State of U.P. v. Paras Nath**[5], the Apex Court held as under:

> "6. We may, in this connection, refer to only one judgment of this Court in the case of **Union of India v. Bhagwan Singh** [(1995) 6 SCC 476]. In this case, the application for appointment on similar compassionate grounds was made twenty years after the railway servant's death. This Court observed:
>
> > 'The reason for making compassionate appointment, which is exceptional, **is to provide immediate financial assistance to the family** of a government servant who dies in harness, when there is no other earning member in the family.'
>
> 7. **No such considerations would normally operate seventeen years after the death of the government**

[3] (1997) 8 SCC 85
[4] (2006) 5 SCC 766
[5] (1998) 2 SCC 412

> **servant.** The High Court was, therefore, not right in granting any relief to the respondents.'
>
> (Emphasis Supplied)

28. Similar view was taken by Madhya Pradesh High Court in **Riazuddin Khan v. State of M.P.**[6] and opined as under:

> "...The very object of appointment of dependent of deceased employee who died in harness is to relieve immediate hardship and distress caused to the family by sudden demise of the earning member of the family and such a consideration cannot be kept pending for years."

29. In **Santosh Kumar Dubey v. State of U.P**[7], the Apex Court held as under:

> "12. The request for appointment on compassionate grounds should be reasonable **and proximate to the time of the death of the bread earner of the family**, inasmuch as the very purpose of giving such benefit is to make financial help available to the family to overcome sudden economic crisis occurring in the family of the deceased who has died in harness. But this, however, cannot be another source of recruitment. This also cannot be treated as a bonanza and also as a right to get an appointment in government service.
>
> (Emphasis Supplied)

30. A Division Bench of Madhya Pradesh High Court in **Managing Director, Madhya Pradesh Paschim Ksetra Vidyut Vitaran Co. v. Ashiq Shah**[8], while dealing with the aspect of delay in approaching the Court for grant of compassionate appointment, held that no directions could have been issued for consideration

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[6] (2005) 4 MPLJ 575
[7] (2009) 6 SCC 481
[8] W.A.No.10 of 2020, dated 07.06.2021

on compassionate ground after almost 24 years from the date of death of employee. The very purpose of grant of compassionate appointment will be defeated if claims of compassionate appointment after decades are entertained.

31. The petitioner's father died in 1988. Although the Writ Petitioner's mother preferred an application immediately after the death of the father for compassionate appointment of the Writ Petitioner, after attaining majority, no application was preferred for grant of compassionate appointment by the Writ Petitioner till 2002.

32. Putting it differently, in the year 1990 when the Writ Petitioner attained majority, he should have promptly preferred the application for considering his case for compassionate appointment. Though it is true that his brother, who was born to another wife of Writ Petitioner's father, filed a petition, it was ultimately came to be dismissed for want of prosecution. However, no interim relief was granted in the said petition and nothing prevented the Writ Petitioner from lodging his claim for compassionate appointment upon attaining majority.

33. As rightly pointed out, if bread winner/employee dies in harness, the basic purpose of granting compassionate appointment is to immediately provide livelihood to the dependants. There are no justifiable reasons for the Writ Petitioner for not approaching the respondents-Department till 2002 and this Court till 2012.

34. In the year 2002, the Writ Petitioner's mother preferred a representation for grant of compassionate appointment and the respondents then sent the matter for age determination of the Writ Petitioner to the medical board. The first rejection order was passed on 15.09.2011 which was set aside on 03.09.2019 in W.P.No.745 of 2012. Thus, it is crystal clear that the Writ Petitioner, who attained majority in the year 1990, approached the respondents after 12 years in 2002 and this Court for compassionate appointment after 22 years. Thereafter, as noted above, the cryptic rejection order was set aside and fresh consideration was ordered. The ultimate rejection order dated 25.10.2019 is called in question in the Writ Petition. The fact remains that during this time, the period elapsed from the date of attaining majority is about 29 years. Thus, the question is whether in a case of this nature, whether the Writ Petitioner is

entitled for consideration for compassionate appointment. The point is no more *res integra.* In the above judgments and **Sanjay Kumar v. State of Bihar and Others**[9], the Apex Court took a similar view. In **Sanjay Kumar** (supra), the Apex Court opined as under:

> "3..... This Court has held in a number of cases that compassionate appointment is intended to enable the family of the deceased employee to tide over sudden crisis resulting due to death of the breadearner who had left the family in penury and without any means of livelihood. In fact such a view has been expressed in the very decision cited by the petitioner in Director of Education Vs. Pushpendra Kumar. It is also significant to notice that on the date when the first application was made by the petitioner on 02/06/1988, the petitioner was a minor and was not eligible for appointment. This is conceded by the petitioner. There cannot be reservation of a vacancy till such time as a petitioner becomes a major after a number of years, unless there are some specific provisions. The very basis of compassionate appointment is to see that the family gets immediate relief."
>
> (Emphasis Supplied)

35. The Writ Petitioner himself disclosed his age as 44 years in the cause title of the Writ Petition. The Writ Petitioner did not approach the respondents and this Court for grant of compassionate appointment within reasonable time upon attaining majority. Merely because litigation at the instance of the Writ Petitioner's brother viz., Ibrahim was pending, it cannot be said that it is a justifiable reason to ignore the enormous delay of

[9] (2000) 7 SCC 192

few decades. Apart from this, in the case of **Debabrata Tiwari** (supra), the Apex Court opined as under:

> "35. Considering the second question referred to above, in the first instance, regarding whether applications for compassionate appointment could be considered **after a delay of several years, we are of the view that, in a case where, for reasons of prolonged delay, either on the part of the applicant in claiming compassionate appointment or the authorities in deciding such claim, the sense of immediacy is diluted and lost.** Further, the financial circumstances of the family of the deceased, may have changed, for the better, since the time of the death of the government employee. **In such circumstances, Courts or other relevant authorities are to be guided by the fact that for such prolonged period of delay, the family of the deceased was able to sustain themselves, most probably by availing gainful employment from some other source.** Granting compassionate appointment in such a case, as noted by this **Court in *Hakim Singh* would amount to treating a claim for compassionate appointment as though it were a matter of inheritance based on a line of succession which is contrary to the Constitution.** Since compassionate appointment is not a vested right and the same is relative to the financial condition and hardship faced by the dependents of the deceased government employee as a consequence of his death, a claim for compassionate appointment may not be entertained after lapse of a considerable period of time since the death of the government employee."
>
> (Emphasis Supplied)

36. In view of foregoing analysis, in our opinion, the Writ Petitioner does not deserve any right of consideration for compassionate appointment after few decades from the date of attaining majority.

37. Since we are not inclined to give our stamp of approval on the order of learned Single Judge because of enormous delay

seeking compassionate appointment, there is no need for us to deal with second facet.

38. At the cost of repetition, the Writ Petitioner attained the age of majority in 1990 and approached the respondents in 2002 and this Court for the first time in 2012. At this distance of time, the very purpose of compassionate appointment gets frustrated. In other words, at this distance of time, the Writ Petitioner is not entitled to get any benefit of compassionate appointment. The learned Single Judge has erred in interfering with the matter.

39. Accordingly, the order of the learned Single Judge is set aside and the Writ Appeal is **allowed**. There shall be no order as to costs. Miscellaneous petitions pending, if any, shall stand closed.

SD/-K SRINIVASA RAO
JOINT REGISTRAR

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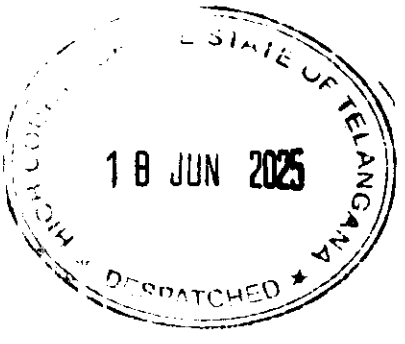
To,

1. The Chairman and Managing Director , Telangana State Power Generation Corporation, Vidyut Souda, Hyderabad
2. The Chief General Manner (HR), Telangana State Power Generation Corporation, Vidyut Souda, Hyderabad
3. The Chief Engineer (0 and M), RTS Ramagundam, Kamareddy District
4. One CC to Ms. K. UDAYA SRI, Advocate [OPUC]
5. One CC to SRI. G. V. SHIVAJI, Advocate [OPUC]
6. Two CD Copies

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HIGH COURT

DATED:28/04/2025



JUDGMENT

WA.No.269 of 2025

ALLOWING THE WRIT APPEAL WITHOUT COSTS

28.5.25