

CIVIL APPEAL NO. _____ **OF 2026**

@ SPECIAL LEAVE PETITION (CIVIL) NO.32890/2025

APPELLANTS

RESPONDENT

1. Heard.
2. Leave granted.
3. The facts given rise to filing of this appeal can be crystallized as under:

The respondent, namely, the writ petitioner, who was a minor

at the time of his father's death attained majoring in the year 2006. Undisputedly, he possessed the requisite qualification in 2006 which made him eligible to seek appointment on compassionate grounds. However, for reasons best known, which is now contended that he intended to complete his graduation did not apply for appointment on compassionate grounds. The fact remains that no application for appointment on compassionate ground was filed. However, after four years following his graduation, he submitted an application in the year 2010, i.e., fifteen years after the death of his father seeking compassionate appointment. The State Government was of the view that the application for appointment on compassionate ground was time barred and by order dated 23.08.2011 rejected the application.

Aggrieved by the same, a Writ Petition was filed before the High Court which came to be dismissed by the learned Single Judge and the Second Appeal filed challenging the same came to be allowed and directed the State to reconsider the application taking into account the Full Bench Judgment in the case of Shiv Kumar Dubey Vs. State of U.P. and Ors. It is thereafter, the State reconsidered the application and yet again rejected the same on the ground of delay vide order dated 31.07.2014.

Being aggrieved by the aforesaid order of rejection, he preferred Writ Petition before the learned Single Judge who directed the authorities to consider the claim for compassionate appointment on any suitable post within a period of two months on the ground that the State was in error in coming to a conclusion that the family was getting a pension of Rs.1,83,000/- and

availability 06 (six) bighas of agricultural land and two daughters of the deceased was already married cannot be a ground to reject compassionate appointment. On the ground of sympathy, namely, the mother of the appellant was suffering from various ailments and the family was in debt due to the solemnization of the marriage of two daughters, the Writ of Mandamus was issued to the State as afore-stated.

Aggrieved by the same, the State filed an intra-court appeal before the High Court which came to be dismissed by the impugned order dated 09.04.2024 reiterating the reasoning adopted by the learned Single Judge was just and proper. It was also held that delay on the part of appellant was *bona fide*.

4. Having heard the learned counsels appearing for the parties and on perusal of the case papers, it requires to be noticed that the appointment on compassionate ground is not a source of employment. It is a departure from general rules of appointment envisaged under Article 309 of the Constitution of India. While considering an application for compassionate appointment, necessarily the penury or the financial distress in which the family has been placed would be taken into consideration as a paramount factor. If the family has survived in spite of a death of an employee, compassionate appointment cannot be claimed, as held by this Court in the case of *State of J & K and Ors. Vs. Sajad Ahmed Mir, reported in (2006) 5 SCC 766*. An applicant will also not have a right to claim particular appointment. We are reiterating this position for the simple reason that in the instant case, the appellant seems to have contended and persuaded the High Court to

accept his argument which was to the effect that the delay had occasioned on account of he having pursued his education and on completion of graduation he had applied for appointment on compassionate ground to the post of Sub-Inspector. In the instant case, the application for appointment would reveal that he had sought for appointment to the post of Sub-Inspector. Though at the relevant time, he was eligible to seek for appointment on compassionate grounds namely in 2006, he had not chosen to do so. In fact, he was eligible to be appointed as a Constable in 2006 as extant rules prescribed the qualification of pass in 12th Standard, which he possessed. Thus, the right to claim compassionate appointment cannot be postponed at the whims and fancies of an applicant.

5. It would be also apposite to take note of dicta laid down by this Court in the case of *State Bank of India and Anr. Vs. Somvir Singh*, reported in (2007) 4 SCC 778, where it has been held that if the competent authority feels that the family was not in distress or penury or without any means of livelihood they have survived as a factor to deny appointment and, the High Court cannot go into the question of financial condition and interfere with the order of rejection, which exercise had been undertaken by the High Court under the impugned orders in the instant case. The application for compassionate appointment having been filed on 18.03.2010, though the writ petitioner attained the majority in the year 2006, it was hopelessly barred by time and the benefit which flows from the circular which has been pressed into service by the learned Single Judge as affirmed by the High Court, namely, that an applicant can

seek appointment on compassionate ground within an outer limit of five years from the date of death and same is to be extended even in case of appellant attaining majority would be contrary to very rule itself or interpreting the rule contrary to the intention of the rule making authority.

6. For the aforestated cumulative reasons, we are not inclined to accept the contentions raised by the appellant - writ petitioner before the High Court that the impugned order should be sustained.

7. For the reasons afore-stated, we allow this appeal, set aside the impugned order dated 09.04.2024 passed by the High Court in SPLAD No.3/2024 and dismiss the Writ Petition.

8. Pending application(s), if any, shall stand disposed of.

.....J.
(ARAVIND KUMAR)

.....J.
(PRASANNA B. VARALE)

NEW DELHI;
JANUARY 13, 2026.

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s).32890/2025

[Arising out of impugned final judgment and order dated 09-04-2024 in SPLAD No.3/2024 passed by the High Court of Judicature at Allahabad]

STATE OF UP & ORS.

Petitioner(s)

VERSUS

MANISH DWIVEDI

Respondent(s)

IA No. 205480/2025 - CONDONATION OF DELAY IN FILING

IA No. 205483/2025 - CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS

IA No. 205484/2025 - EXEMPTION FROM FILING O.T.

Date : 13-01-2026 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE ARAVIND KUMAR
HON'BLE MR. JUSTICE PRASANNA B. VARALE

For Petitioner(s) : Ms. Ruchira Goel, AOR

For Respondent(s) : Mr. Lokendra Upadhyay, Adv.
Mr. Vivek Mishra, Adv.
Mamta Upadhyay, Adv.
Mr. Pushkar Sharma, AOR

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

Civil Appeal is allowed in terms of the signed order placed on the file.

Pending application(s), if any, shall stand disposed of.

(NEHA GUPTA)
COURT MASTER (SH)

(AVGV RAMU)
COURT MASTER (NSH)