

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF MARCH 2026

BEFORE

THE HON'BLE MR. JUSTICE B M SHYAM PRASAD

AND

THE HON'BLE MR. JUSTICE T.M.NADAF

WRIT PETITION No.35294/2025 (S-KSAT)

BETWEEN:

KUM. PRABHAVATHI ADENNAVAR,
D/O BABU ADENNAVAR,
AGED ABOUT 33 YEARS,
R/AT NO.24, 1ST MAIN,
RAGHAVENDRA COLONY,
J.B. KAVAL, VIDYARANYAPURA,
BENGALURU - 560 097.

...PETITIONER

(BY SRI.M.NAGARAJAN, ADVOCATE)

AND:

1 . THE STATE OF KARNATAKA
REPRESENTED BY
PRINCIPAL SECRETARY
TO GOVERNMENT,
REVENUE DEPARTMENT,
M.S. BUILDING,
BANGALORE - 560 001.

2 . THE DEPUTY COMMISSIONER,
BENGALURU URBAN DISTRICT,
BENGALURU - 560 001.

... RESPONDENTS

(BY SRI.REUBEN JACOB, AAG A/W
SRI.V.SHIVAREDDY, AGA)

THIS WRIT PETITION IS FILED UNDER ARTICLES
226 AND 227 OF THE CONSTITUTION OF INDIA
PRAYING TO QUASHING THE IMPUGNED ORDER
DATED 14/06/2024 IN A.NO.5233/2023 ON THE FILE
OF THE HON'BLE KARNATAKA STATE ADMINISTRATIVE
TRIBUNAL AT BENGALURU AND ALLOW THE
A.NO.5233/2023 VIDE ANNEXURE-C AND ETC.

THIS WRIT PETITION HAVING BEEN HEARD AND
RESERVED AND COMING ON FOR PRONOUNCEMENT
OF ORDERS THIS DAY, THE COURT MADE THE
FOLLOWING:

CORAM: HON'BLE MR. JUSTICE B M SHYAM PRASAD
and
HON'BLE MR. JUSTICE T.M.NADAF

CAV ORDER

(PER: HON'BLE MR. JUSTICE B M SHYAM PRASAD)

The petitioner has been pursuing her applications for an appointment on compassionate grounds on the demise of her brother, Mr. Basavaraj Adennavar and his wife, Mrs. Vidya, in a road accident leaving behind Mstr. Chinmayi [the minor]. The petitioner's recent application with the Karnataka State Administrative Tribunal [for short, the Tribunal] is in Application No. 5233/2023, and the Tribunal has rejected the petitioner's application by its order dated 14.06.2024.

2. Mr. Basavaraj Adennavar was working as a Village Accountant with the office of the Deputy Commissioner, Bengaluru Rural District [the second respondent]. On 04.07.2017, he and his wife, Mrs. Vidya, died in a road accident. They are survived by the petitioner, her father, and the minor who was only one year old at the time of the accident. The petitioner's father filed an application [on 19.07.2017]

with the jurisdictional Tahsildar for appointment to the petitioner on compassionate grounds contending that **[i]** he is aged and cannot look after the minor, **[ii]** the petitioner, who is specially abled and a spinster, is the minor's next natural guardian and she can look after him, **[iii]** given the families financial condition, the petitioner will need a secured employment with the State Government and **[iv]** the petitioner has completed graduation in B.Ed. and she is qualified to be appointed as a Second Division Assistant.

3. The jurisdictional Tahsildar has forwarded this application to the second respondent, who by the Communication dated 04.09.2018, has informed the petitioner's father that the request is rejected citing Rule 3[2] of the Karnataka Civil Services [Appointment on Compassionate Grounds] Rules, 1996 [*the Compassionate Appointment Rules*] stating that a deceased employee's sister will not be entitled for appointment on compassionate grounds. The petitioner has pursued her filial responsibilities

towards the minor [*as an aunt*] in filing an application in G & WC Case No. 28/2018 for her appointment as the minor's guardian under the Guardian and Wards Act, 1890. The jurisdictional Court has allowed the application on 19.03.2021.

4. The State Government, on 09.04.2021, has notified amendment to the Compassionate Appointment Rules. The significant amendments for the present purposes are as follows:

- *The meaning of a family contemplated under Rule 2 is widened to include that a certified guardian of a minor child who takes care of the minor children as per the law would be within the definition of the family if the deceased Government's spouse is also no more.*
- *A certified guardian of the minor children left behind by the deceased government employee and his/her spouse is made eligible for appointment on compassionate grounds if such certified guardian resides with the minor children*

and takes care of them. This change is by including sub clause [iii] to Rule 3[2].

- *The Rule 5 stipulates that every dependent of the deceased Government Employee seeking appointment on compassionate grounds must make an application within one year from the date of death of Government employee but in the case of minor dependants, exception is made stipulating that the minor should complete 18 years within two years of the date of the death of the government employee and make an application within two years from the date of completing 18 years.*

The petitioner, with these changes in the Compassionate Appointment Rules, has filed another application for appointment on compassionate grounds; the petitioner's application is dated 18.08.2022.

5. The petitioner has filed an application in No. 4713/2022 with the Tribunal for directions to the

State Government/ the second respondent to consider her application dated 18.08.2022 and for directions to these respondents to appoint her on compassionate grounds. The Tribunal has disposed of this application on 20.03.2023 directing the State Government/ the second respondent to consider the petitioner's application on merits and in accordance with law within a certain timeline. The second respondent has issued the petitioner with the next Endorsement dated 07.07.2023 informing her that she cannot claim the benefit under the amended Rule 3[2][iii] of the Compassion Appointment Rules because the first application for compassionate appointment is prior to this amendment.

6. The petitioner has filed her next Application No. 5233/2023 with the Tribunal challenging this Endorsement dated 07.07.2023 which has resulted in the Tribunal's impugned order. The Tribunal following the decision of the Apex Court in the ***State of Karnataka v. Bheemesh @***

Bheemappa¹ has opined that if the petitioner's application is considered based on Rule 3[2] as it was on the date of the demise of Mr. Basavaraj Addenavvar [04.07.2017] she cannot be permitted to compassionate appointment.

7. Mr. M Nagarajan, the learned counsel for the petitioner, while canvassing that the facts and circumstances of the present case are peculiar and that this Court must ensure that the minor's interest is protected with appointment to the petitioner [who is a spinster and specially abled], submits that a Three Judge Bench of the Apex Court in **N.C Santosh v. State of Karnataka**² has categorically opined that the eligibility to appointment on compassionate grounds must be tested as against the rule that was in place as of the date of the consideration of the application.

¹ (2021) 20 SCC 707

² (2020) 7 SCC 617

8. Mr. M Nagarajan underscores that Mr Basavaraj Addenevvar died on 04.07.2017, but as on that day Rule 3 of the Compassionate Appointment Rules did not contemplate appointment on compassionate ground when both the deceased employee and the spouse were no more, but this lacuna is corrected in issuing the notification dated 09.04.2021 stipulating that in a situation where both the employee and the spouse died but leaving behind minor children a certified guardian living with them and taking care of them would be eligible for appointment on compassionate grounds.

9. Mr. M Nagarajan canvasses that, the petitioner's application for appointment on compassionate grounds, which is filed after the order dated 19.03.2021 in G&WC No. 28/2018, must be considered in the light of this change and the decision of the Apex Court in **N.C Santhosh** [*supra*], and that the Tribunal has overlooked these

circumstances in rejecting the petitioner's application.

10. Mr. Reuben Jacob, a learned Additional Advocate General, canvasses the following stating that his submissions are notwithstanding the peculiarities and perhaps the genuineness of the petitioner's claim for appointment as a *Certified Guardian* of the minor [who even as of today is below 10 years].

[A] The State Government *vide* the notification dated 09.04.2021 has also amended Rule 5 stipulating that every dependant who seeks appointment on compassionate grounds must make an application within one year from the date of the death of the employee.

[B] If a dependant minor is the applicant, then such minor must attain the age of 18 years within two years from the date of the

death of the employee and must make an application within two years thereafter.

[C] The petitioner would not be entitled to compassionate appointment because, in terms of this amended Rule 5 [which was in place as on the date of the petitioner's application], the application is beyond one year from the date of death of Mr. Basavaraj Adennavar.

11. The petitioner's grievance with the Tribunal's order rejecting the application confirming the respondent's decision to refuse compassionate appointment is examined in the light of the following facts and the law as enunciated by the Apex Court in two decisions *viz.* **Bheemesh** [*supra*] and **N.C Santosh**. [*supra*]. Mr. Basavaraj Adennavar has died in the year 2017, and as of that date the Compassionate Appointment Rules did not contemplate appointment to a Certified Guardian of

the minor children left behind by a deceased government employee and his/her spouse, and therefore, the first application is rejected in the year 2018. The petitioner has pursued her application for her appointment as a guardian under the Guardian and Wards Act, 1890, and she is so appointed on 19.03.2021. Even as of this date, the Compassionate Appointment Rules did not contemplate appointment to a Certified Guardian. It is only on 09.04.2021 that these Rules are amended.

12. This amendment on 09.04.2021 indeed creates eligibility for a Certified Guardian but this eligibility is in the backdrop of the simultaneous amendment that the application by a dependant of a deceased employee must be filed within a year and the exception to this timeline is to be made in the case of a minor; and the minor to be eligible for compassionate appointment must complete 18 years within two years from the date of death of the concerned government employee and should make an

application within two years from the date of completing 18 years. The amendment reads as under:

“5. Application for appointment: Every dependent of a deceased Government Servant, seeking appointment under these rules shall make an application within one year from the date of death of the Government Servant, in such form, as may be notified by the Government, from time to time, to the Head of the Department under whom the deceased Government Servant was working.

Provided that, in case of a minor he must have attained the age of eighteen years within two years from the date of death of the Government servant and he must make an application within two years thereafter.”

13. This amendment to the Rule 5, which is by way of substitution, introduces a difficulty for the petitioner. If the first part of Rule 5 is made applicable, the petitioner's application should have been within one year from the date of the death of Mr. Basavaraj Adennavar; and if the second part of Rule 5 is made applicable, the petitioner's application should be within two years as contemplated there under. This

Court must opine that, the petitioner's application [dated 18.08.2022] cannot be considered because it is filed five years from the date of death of Mr. Basavaraj Adennavar.

14. The Apex Court in **N.C. Santosh** [supra] is categorical in opining that the norms that prevailed as on the date of the consideration of the application must be the decisive factor and not the norm as of the date of the death of the deceased employee. The Apex Court in the next decision *viz.*, in **Bheemesh** [supra], after referring to its different decisions, including the decision in *N.C. Santosh*, has opined thus.

"18. Keeping the above in mind, if we critically analyse the way in which this Court has proceeded to interpret the applicability of a new or modified Scheme that comes into force after the death of the employee, we may notice an interesting feature. In cases where the benefit under the existing Scheme was taken away or substituted with a lesser benefit, this Court directed the application of the new Scheme. But in cases where the benefits under

an existing Scheme were enlarged by a modified Scheme after the death of the employee, this Court applied only the Scheme that was in force on the date of death of the employee. This is fundamentally due to the fact that compassionate appointment was always considered to be an exception to the normal method of recruitment and perhaps looked down upon with lesser compassion for the individual and greater concern for the rule of law."

This Court opines that the dicta is that, compassionate appointment is an exception to regular recruitment and there must be greater emphasis on the rule of law and that the Court's must not readily interpret the provisions on compassionate appointment to extend the benefit of appointment on such ground. The Apex Court has also said that the interpretation of the provisions should depend upon determinate and fixed criteria.

15. In the present circumstances, because the petitioner's application is beyond the time limit prescribed under Rule 5 of the Compassionate

Appointment Rules, an exception cannot be made on the ground that the petitioner is a spinster who is specially abled and keen to look after the minor [*aged below 10 years even now*]. If these circumstances prevail, indeterminate factors will be given preference. Therefore, this Court opines that the petitioner cannot be extended the benefit of the amended eligibility and no exception can be taken on the Tribunal's impugned order or the respondent's decision to refuse her appointment on compassionate grounds.

Hence, the petition is rejected.

Sd/-
(B M SHYAM PRASAD)
JUDGE

Sd/-
(T.M.NADAF)
JUDGE

*nv**