

Reserved on : 08.09.2026
Pronounced on : 22.09.2026



IN THE HIGH COURT OF KARNATAKA AT DHARWAD

DATED THIS THE 22ND DAY OF SEPTEMBER, 2026

PRESENT

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA
AND

THE HON'BLE MRS JUSTICE HEMA KULKARNI
WRIT PETITION NO. 106662 OF 2026 (S-KAT)

C/W

WRIT PETITION NO. 106664 OF 2026 (S-KAT)

IN WP No. 106662/2026

BETWEEN:

1. THE STATE OF KARNATAKA
REPRESENTED BY
THE PRINCIPAL SECRETARY
DEPARTMENT OF REVENUE
M.S.BUILDING
BENGALURU - 560 001.
2. THE COMMISSIONER
SURVEY SETTLEMENT AND LAND RECORDS
K.R.CIRCLE, BENGALURU - 560 001.

...PETITIONERS

(BY SRI SHARAD MAGADUM, AGA)



AND:

SRI SATHISH V GULLA
S/O LATE VEERESH GULLA
AGED ABOUT 32 YEARS
RESIDING AT HOUSE NO.684/3
BAZAR ROAD, SHIRASANGI VILLAGE
SAUDATTI TALUK, BELAGAVI DISTRICT
WORKING AS SECOND DIVISION ASSISTANT
ON DEPUTATION TO THE OFFICE OF THE
ASSISTANT DIRECTOR OF LAND RECORDS
RAMDURGA, BELAGAVI DISTRICT - 591 123.

...RESPONDENT

(BY SRI G.K.HIREGOUDAR, ADVOCATE FOR C/RESPONDENT)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF CONSTITUTION OF INDIA PRAYING TO, A) ISSUE A WRIT IN THE NATURE OF CERTIORARI TO QUASH THE IMPUGNED ORDER PASSED BY THE HON'BLE KARNATAKA STATE ADMINISTRATIVE TRIBUNAL, AT BELAGAVI IN APPLICATION NO. 10758/2024 BY ORDER DATED 24.03.2026 VIDE ANNEXURE-A.

IN WP NO. 106664/2026

BETWEEN:

1. THE STATE OF KARNATAKA
REPRESENTED BY
THE PRINCIPAL SECRETARY
DEPARTMENT OF REVENUE,
M.S.BUILDING
BENGALURU - 560 001.
2. THE COMMISSIONER
SURVEY SETTLEMENT AND LAND RECORDS

K.R.CIRCLE, BENGALURU - 560 001.

...PETITIONERS

(BY SRI SHARAD MAGADUM, AGA)

AND:

1. SRI SANDEEPKUMAR VINAYAKARAO KULKARNI
S/O LATE VINAYRAO KULKARNI
AGED ABOUT 38 YEARS,
RESIDING AT HOUSE NO. 53D,
PLOT NO.82, 18TH CROSS, RONADA LAYOUT
NEAR VIPRA RAGHAVENDRA MATA
VIDHYAGIRI BAGALKOTE
WORKING AS SECOND DIVISION ASSISTANT
ON DEPUTATION TO THE OFFICE OF
THE DEPUTY DIRECTOR OF LAND RECORDS
BAGALKOTE - 587 103.

...RESPONDENT

(BY SRI G.K.HIREGOUDAR, ADVOCATE FOR
C/RESPONDENT)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF CONSTITUTION OF INDIA PRAYING TO A) ISSUE A WRIT IN THE NATURE OF CERTIORARI TO QUASH THE IMPUGNED ORDER PASSED BY THE HON'BLE KARNATAKA STATE ADMINISTRATIVE TRIBUNAL AT BELAGAVI BENCH IN APPLICATION NO. 10759/2024 BY ORDER DATED 24.03.2026 VIDE ANNEXURE-A.

THESE WRIT PETITIONS HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 08.09.2026, COMING ON FOR PRONOUNCEMENT THIS DAY **M.NAGAPRASANNA J.,,** MADE THE FOLLOWING:-

CORAM: HON'BLE MR. JUSTICE M.NAGAPRASANNA
and
HON'BLE MRS JUSTICE HEMA KULKARNI

CAV ORDER

(PER: HON'BLE MR. JUSTICE M.NAGAPRASANNA)

Both these cases arise out of orders passed by the Karnataka State Administrative Tribunal at Belagavi ('the Tribunal' for short) in Applications Nos. 10758 and 10759 of 2024 respectively. The issues projected by the State which is in appeal in both these cases are similar. Therefore, they are taken up together and considered by this common order.

2. Heard Sri Sharad Magadum, learned Additional Government Advocate appearing for petitioners and Sri G.K.Hiregoudar, learned counsel appearing for the respondent.

3. Facts in brief, germane, are as follows:-

Writ Petition No.106662 of 2026:

(a) The father of the respondent/applicant was working as a Bandh Peon in the office of the Assistant Director of Land Records,

Belagavi. He dies in harness on 28-03-2017. Pursuant to the death of the father of the petitioner, the sole breadwinner, the respondent represents in terms of the scheme for appointment on compassionate grounds. On 26-03-2018 the respondent is appointed in the said office as a Second Division Assistant. He reports for duty on 16-04-2018. After about 7 months of his reporting to duty, the respondent submits a representation seeking to consider his case for appointment to a higher post owing to his educational qualification. This comes to be rejected by an endorsement dated 21-01-2019. The said endorsement is challenged before the Tribunal by filing Application No.10758 of 2024. The Tribunal allows the application, sets aside the endorsement impugned therein and directs consideration of the case of the respondent to the post of First Division Assistant owing to his qualification.

Writ Petition No.106664 of 2026:

(b) The father of the respondent who was also working as Bandh Peon in the office of the Assistant Director of Land Records dies in harness on 29-06-2017. 7 months thereafter, the

respondent submits an application seeking appointment on compassionate grounds. This is answered in his favour by granting appointment on compassionate grounds in terms of official memorandum dated 9-07-2018 not according to his qualification, but as a Second Division Assistant. The respondent reports for duty as Second Division Assistant on 23-07-2018. Immediately thereafter, he submits a representation to be appointed according to his qualification on 25-08-2018. An endorsement is issued on 07-09-2018 declining his request. This endorsement is called in question before the Tribunal in Application No.10759 of 2014. The Tribunal allows the application and directs consideration of his case for appointment on compassionate grounds to the post of First Division Assistant. The State being aggrieved by the orders passed by the Tribunal is before this Court in the subject petitions calling in question identical orders passed for consideration of the cases of the applicants before it, to the posts of First Division Assistant in terms of the scheme.

4. The learned Additional Government Advocate representing the State would vehemently contend that when an appointment on

compassionate grounds is offered and accepted, there cannot be a challenge to the same after its acceptance. Compassionate appointment is not a method of direct recruitment where qualification and other things are being assessed. But, the appointments in the present case are backdoor entries into the public employment, where the appointment is granted to tide over the crisis that falls upon the family when the sole breadwinner dies. This cannot be made use of to contend that if someone has acquired a qualification that befits him to a particular post that post should be granted. He seeks to place reliance upon certain judgments of the Apex Court and that of this Court to buttress his submissions.

5. Per contra, the learned counsel appearing for the respondents in both the petitions would submit that compassionate appointment is not granted in vacuum. It is in terms of the Rules, Government orders issued under the Rules and circulars prevalent. It is not for the first time the State has changed the cadre of several persons appointed on compassionate grounds owing to their qualification. He would submit that the State in terms of Official

Memorandum dated 29-09-2016 has in about 8 cases transposed those persons as First Division Assistants from Second Division Assistants owing to their qualification. They were appointed on compassionate grounds on the same conditions, under the same Scheme and under the same Rules. He would submit that if there is one case also it would become a right to the respondents to seek transposing of the applicants qua their qualification to the posts of First Division Assistant. He would also seek to place reliance upon several judgments rendered by the Apex Court, Division Bench of this Court, learned single Judge of this Court which have become final and other High Courts to buttress his submissions. He would defend the orders passed by the Tribunal.

6. We have given our anxious consideration to the submissions made by the respective learned counsel and have perused the material on record.

7. Before embarking upon consideration of the impugned orders, we deem it appropriate to notice the Rules and the Scheme notified under the Rules. The Rules that govern are the Karnataka

Civil Services (Appointment on Compassionate Grounds) Rules, 1996. Rules 4 and 6 read as follows:

"4. Conditions of Appointment:-

Appointment on compassionate grounds under these rules shall be subject to the following conditions, namely:-

(1) The family of the deceased Government Servant should be in a financial crisis or destitution.

Explanation.- (a) Family of a deceased Government Servant shall be considered to be in financial crisis or destitution if the recurring monthly income of the family from all sources is less than the total emoluments including Dearness Allowance, House Rent Allowance and City Compensatory Allowance admissible at Bangalore on the average of the minimum and the maximum of the scale of pay of the post of the First Division Assistant, as on the date of making application for compassionate appointment. For calculating such monthly income, the income from family pension, lumpsum pensionary benefits and interest earned thereon shall be excluded.

(b) Recurring monthly income from all sources other than family pension, lumpsum pensionary benefits and the interest earned thereon, of the family for the purpose of this rule shall be computed by the Head of the Office or the Head of the Department or the appointing authority;

(i) on the basis of the last annual property return filed by the deceased Government Servant and if, for any reason, it is not available, on the basis of a certificate of income issued by a Revenue Officer not below the rank of Tahsildar; and

(ii) in case any member of the family of the deceased Government Servant is employed in any State or Central Government Service or a public or private sector undertaking or a private establishment, on the basis of a certificate issued by his employer and in case such member is self employed on the basis of certificate issued by a revenue officer not below the rank of Tahsildar.

1 [Provided that, nothing in sub-rule (1), shall apply to Government Servants belonging to Group-C and D]1

(2) Person seeking appointment shall be within the age limit specified for the post in the relevant rules of recruitment specially made in respect of any service or post read with sub rule (3) of rule 6 of the Karnataka Civil Services (General Recruitment) Rules, 1977 and where it is not so specified such person shall be within the age limits specified in the Karnataka Civil Services (General Recruitment) Rules, 1977.

[Provided that, the age specified above shall not apply to widow or widower of the deceased Government servant, who seeks appointment under these rules. The age limit for these dependents shall not exceed fifty five years at the time of submitting application.]

(3) Person seeking appointment should possess the minimum qualification specified for the post in the relevant rules of recruitment specially made in respect of any service or post.

[Provided that nothing in this sub rule and sub rule (5) of rule 5 of the Karnataka Civil Services (General Recruitment) Rules, 1977 in so far as it relates to educational qualification, shall apply to appointment under these rules to any Group 'D' Post.]

2[(4) Appointment shall be confined to any post in Group "C" or Group "D" depending upon the qualification specified for the post but excluding the posts carrying the pay scales higher than the scale of pay of the post of Assistant in the Karnataka Government Secretariat as may be revised from time to time and any other post in either of the groups as may be specified by the Government from time to time".]

(5) Appointment shall be made only against a direct recruitment vacancy.

3[(xxxxxxxxxx).]3

(6) Appointment shall be made in the department in which the deceased Government Servant was working;

Provided that if no vacancy is available in that department subject to any general order that may be issued by the Government appointment may be made in any other department of the Government where the vacancy is available.

....

6. Appointment by the Competent Authority:-

(1) On receipt of the application under rule 5, the Head of the Department, if satisfied that the applicant fulfills all the conditions specified under these rules, shall appoint, where he is the appointing authority, and if not direct the appropriate appointing authority to issue the order of appointment.

(2) The appointment under sub-rule (1) shall be made as far as possible within a period of three months from the date of receipt of the application under rule 5.

(3) Consultation with the Finance Department shall not be necessary for appointment under these rules.

(4) Appointment once made under these rules shall be final and no fresh appointment to a different post or higher post under these rules shall be permissible.

(5) The appointment under these rules shall not be made in the case of the dependent of a deceased person who at the time of death was on re-employment or was employed as Local Candidate, Stipendiary Graduate or Daily Wage Worker or employed in any work charged establishment or on casual employment. [or whole time or part-time employees paid out of contingencies.

Provided that applications pending on the date of commencement of the Karnataka Civil Services (Appointment on Compassionate Grounds) (Second Amendment) Rules, 2010 shall be disposed in accordance with the provisions as existed before the commencement of this said amendment rules.

(6) No candidate shall be appointed to a Group "C" post under these rules unless he passes the Kannada Language Test prescribed under the Karnataka Civil Services (Recruitment)

(Kannada Language Test) Rules, 1984 except those who are exempted under the said rules.

(7) The appointment under these rules shall be made in accordance with the provisions that are prevailing on the date of application."

Rule 4 deals with appointment be confined to any post in Group-C or Group-D depending upon the qualification specified for the post but excluding the posts carrying the pay scales higher than the scale of pay of the post of Assistant in the Karnataka Government Secretariat. Rule 6 mandates that appointments once made under the Rules shall be final and no fresh appointment to a different post or a higher post is permissible. Sub-rule (7) of Rule 6 permits that the appointment under the Rules should be made in accordance with the provisions that are prevailing as on the date of the application. The Government has notified a circular in furtherance of the said Rules on 27-10-2017 wherein the lowest post in Group-C would require graduation and State had been committing frequent errors in appointing persons qualified to hold Group-C posts being appointed in Group-D posts. It is to set the anomaly right the circular comes to be issued. In the teeth of the aforesaid facts, the

orders of the Tribunal require to be noticed. The order of the Tribunal impugned in Writ Petition No.106662 of 2026 is as follows:

" "

(b) The Government of Karnataka, Department of Personnel and Administrative Reforms, issued a Circular dated 27.10.2017, instructing all competent authorities to follow strictly the educational criteria while appointing the persons on compassionate appointment. In the said Circular, the educational qualification prescribed for Group 'C' and 'D' posts is SSLC and for Group 'C' posts, namely, SDA and Junior Assistant, the qualification prescribed is PUC or its equivalent. So far as the post of FDA, the qualification prescribed is Degree or its equivalent. The Government has noticed that in many cases, the educational qualification has not been taken into consideration while appointing Group 'C' and 'D' posts, and the Government issued instructions to the competent authorities to strictly adhere the aforesaid Circular i.e., educational criteria while appointing persons on compassionate appointment;

(c) The 2nd Respondent while appointing the Applicant on compassionate ground, ought to have taken into consideration the Government Circular dated 27.10.2017 issued by the Government of Karnataka which provides that while appointing a person on compassionate ground for the post of First Division Assistant, the educational qualification is degree or equivalent qualification. As the Applicant did his Bachelor's Degree in Mechanical Engineering, he ought to have been appointed as First Division Assistant, whereas, in utter disregard of the said Government instructions issued by the Government of Karnataka, the 2nd Respondent, appointed the Applicant as Second Division Assistant. Therefore, the said illegality has resulted in serious miscarriage of justice.

(d) Because of the illegality committed by the 2nd Respondent, the Applicant is now working as Second Division Assistant and it may take another 10 to 15 years for his promotion as First Division Assistant, besides, the Applicant who is a holder of Bachelor's Degree in Mechanical Engineering, has to work as

Second Division Assistant, and the qualification prescribed for Second Division Assistant is only PUC. It would definitely affect his morale to work as Second Division Assistant for no fault of his and because of the total non-application of mind and arbitrary action of the 2nd Respondent;

(e) The illegality committed by the 2nd Respondent while appointing the Applicant as Second Division Assistant ignoring the Government Circular dated 27.10.2017, cannot be allowed to perpetuate since the very appointment of the Applicant is in violation of the said Circular. Each day of the Applicant's working as Second Division Assistant, gives fresh cause of action for him to challenge the illegality committed by the 2nd Respondent. Though he gave a representation on 23.11.2018, the 2nd Respondent has not considered the same, and on the other hand, by wrongly relying on the Judgment of the Hon'ble Supreme Court cited above, issued an endorsement dated 21.01.2019 rejecting the Applicant's request for modification of the appointment Order, to appoint him as First Division Assistant instead of Second Division Assistant;

(f) The 2nd Respondent acted in an utter disregard of the Government Circular and also, wrongly relied upon the Judgment of the Hon'ble Supreme Court, the facts of which case are not at all applicable to the facts of the Applicant's case;

(g) During February 2024, the Applicant came to know that on 29.09.2016, the 2nd Respondent issued an Official Memorandum appointing two persons, namely, Sri Parashurama R. Doddamani, and Sri Jagadeesh Sangappa Abdulpura, for the post of First Division Assistants though they were appointed for Group-D Post, having regard to their qualification i.e., B.Com., Degree and MBA Degree, respectively. Similar benefits ought to have been extended to the Applicant also. Under such circumstances, the illegality committed by the 2nd Respondent in ignoring the Government Circular dated 27.10.2017 and appointing for the post of Second Division Assistant without considering his qualification, cannot be continued perpetually and since it is continuing wrong, this Tribunal may set right the illegality committed by the 2nd Respondent;

(h) Similarly, in respect of one Kumari Rajeshwari Ashok Patil, who is a holder of Bachelor's Degree in Business Management and Sri Dattatreya Ashok Bhairavadagi, MBA Graduate were given appointment on compassionate as First Division Assistant Group 'C' post on 16.09.2014 and 16.09.2014, respectively, copies of which are produced and marked as Annexure-A7 and A8, respectively;

(i) The Applicant who has lost his father due to serious illness, was compelled to join as Second Division Assistant since there were no other persons in his family to eke out their livelihood. He had to take care of his mother and for that, there was no other option before the Applicant but to report for duty. His mother and other well-wishers, forced the Applicant to report for duty as Second Division Assistant. In the appointment Order also, the 2nd Respondent has imposed a condition that he should report for duty within 15 days or else, the appointment order would be cancelled. As the family was under serious financial difficulty and there was no other earning member in the family, the Applicant having left with no other option, reported for duty.

4. The learned Counsel for the applicant filed a memo along with 6 documents, namely,

- (i) Letter dated 01.12.2025 by the 1st respondent to the 2nd respondent;
- (ii) Circular dated 27.10.2017 of the DPAR;
- (iii) Decision of the Hon'ble High Court of Karnataka in The Director of Municipal Administration v. H.N. Guruprasad [WA No.2060/2006(S-PRO)];
- (iv) Decision of the Hon'ble High Court of Karnataka in State of Karnataka & Others v. Jamadagni in WP No.34332/2016 (S-KAT) decided on 26.02.2021;
- (v) Decision of the Hon'ble High Court of Karnataka in Indira P. Nungari v. State of Karnataka & Others (WP No.112468/2017 decided on 13.10.2025); (iv) Decision of this Tribunal in Ganesh Naik L. v. State

of Karnataka in A.No.4698/2021 decided on 21.12.2022.

5. On the contrary, Sri Anthony R. Rodrigues, the learned AGA for the respondents has filed a detailed reply statement and opposed the application. According to him, the Applicant is not entitled for the reliefs as sought for. The Application is not maintainable either in law or on facts and the same is liable to be dismissed for the following reasons, namely:-

(i) The Applicant has challenged the endorsement dated 21.01.2019 after a lapse of 5 years and he sought to modify the compassionate appointment order with effect from the date of his appointment i.e., 16.04.2018 after lapse of 6 years. Hence, the Application is not maintainable as per Section 21 of Administrative Tribunal Act 1985 and the endorsement dated 21.01.2019 was issued on the basis of the Hon'ble Supreme Court Judgments and the reasons self explanatory for rejection of his representation;

(ii) Section 20 of the AT Act, 1985 provides that in a case where an appeal or representation such as is mentioned in clause (b) of Sub-Section (2) of Section 20 has been made and a period of six months had expired thereafter without such final order having been made, within one year from the date of expiry, of the said period of six months. Therefore, in pursuant to this Section, the Application is not maintainable under law as the Applicant has approached this Hon'ble Court after completion of the 9 years of impugned order passed, by accepting appointment order on 16.04.2018;

(iii) The Applicant has disregarded the powers of immediate Appellate Authority i.e., the Secretariat of Revenue Department, Government of Karnataka, the act of the Applicant is contrary to Section 20 of the Administrative Tribunal Act, 1985. Therefore, the Application is premature at this stage as the Applicant is not exhausted the available alternate remedy before approaching Hon'ble Tribunal.

(iv) Section 20 of Administrative Tribunal Act, 1985 clearly stated that the Application not be admitted unless other remedies exhausted and it is also stated that Tribunal shall not

ordinarily admit an application unless it is satisfied that Applicant has availed all the remedies available to him under the relevant service rules as to redressal of grievances and final order has been made by the government or other authority or officers or other persons competent to pass such order under such rules, rejecting any appeal preferred or representation made by such persons in connection with the grievance or where no final order has been made by the Government or other authority or officer or other person competent to pass such order with regard to the appeal preferred or representation made by such person, for a period of six months from the date on which such appeal was preferred or representation was made has expired.

(v) Rule 6(4) of the Karnataka Civil Services (Appointment on Compassionate Grounds) Rules, 1996, clearly states that, the Appointment once made under these rules shall be final and no fresh appointment to a different post or higher post under these rules shall be permissible;

(vi) Rule 3(1) of the Karnataka Civil Services (Appointment on Compassionate Grounds) Rules, 1996 clearly states that, the appointment on compassionate grounds under these rules shall not be claimed as a matter of right and shall not be given as a matter of course;

(vii) The Hon'ble Supreme Court of India, in Writ Petition (Civil) No(s).386 of 2014 in the case of S.R. Manikya & Ors v. High Court of Karnataka respondent(s) with Writ Petition (Civil) No(s).765 of 2015 is held that the controversy as to what should be an effective date of appointment of the petitioners is, in our opinion, squarely covered by the direction already issued by this Court in the paragraph extracted above. That is because the appointment of the petitioners has come to be made pursuant to the order passed by this Court, which in no uncertain terms stipulates that the same will take effect from the date of the issuance of the orders of appointment. The expression "will be taken from the date of issuance of the order of appointment" is much too clear to admit of any equivocation. The spirit and the purport of the said direction is that the appointments will not be given retrospective effect nor will such appointments count for seniority over candidates who had already been appointed to the cadre. Therefore, the Applicant

has no right to claim compassionate appointment to higher cadre with retrospective effect;

(viii) It is well settled principle that the object of compassionate ground appointment is to immediately help to family to tide over crisis that befalls when breadwinner of the family loses his life by giving appointment as expeditiously as possible. In the present case the Applicant has submitted for appointment on compassionate ground on 08.03.2017 and he has been issued with an appointment letter 12.10.2017 without any delay. The Applicant has been appointed in Group 'C' post and he accepted the post without any demur but has raised objections after laps of time after accepting the employment. In the case on hand, the father of Applicant died on 28.03.2017 and he was issued with an appointment letter on 26.03.2018 without any delay. Hence the appointment on compassionate ground of Applicant in Group 'C' post is in accordance with law;

(ix) It is well settled law that, recruitment rules and policies generally operate prospectively i.e., from the date they are issued, an appointment or recruitment order cannot be issued with retrospective effect. A candidate's right to a post and associated benefits arises only from the date of the actual appointment, not from a prior date when the appointment order was received. The power to issue recruitment rules with retrospective effect exists for a sovereign legislature, but it is highly restricted and generally impermissible for executive authorities or in individual cases, especially if it negatively impacts existing rights of other employees;

(x) That in view of the facts and circumstances, the action taken by the Respondents is just and reasonable. Thus, viewed from any angle, the Applicant is not entitled to any reliefs as sought in the above application and the same is liable to be dismissed as the Application is very premature at this stage;

(xi) The averments stated by the Applicant are baseless, vague, illegal and intentionally misleading the Court and the ground urged by the Applicant is not sustainable from any point of view. Hence, grounds and application submitted by the Petitioner are liable for rejection.

6. We have heard the learned Counsel for the applicant and the learned AGA for the respondents. We have also

considered the pleadings on both sides. It is the case of the applicant that on the death of his father while he was in service, the applicant was appointed on compassionate ground on 26.03.2018 as second division assistant. The applicants' contention is that since he possesses degree in mechanical engineering as per the circular issued by the DPAR he is entitled for the post of First Division Assistant. His further contention is that in similar cases the respondents have considered the request of the candidates for higher post. However, in his case the respondents issued the endorsement denying his request for the post commensurate with his qualification, that is degree in mechanical engineering. He submits that the impugned endorsement denying the post of FDA sought for is arbitrary and illegal.

7. In support of his case the applicant relied on the judicial precedent, namely, Union of India and another v. Shashank Goswami and another, (2012) 11 SCC 307 that the appointments on compassionate ground should be made in accordance with the Rules, Regulations, or Administrative Instructions.

8. For the applicant it is also contended that in similar circumstances, two persons, namely, Sri Parashurama R. Doddamani and Sri Jagadeesh Sangappa Abdulpura, for the post of First Division Assistant who were appointed to Group 'D' post and reported for duty on 05.09.2015 and 05.03.2016, were appointed to Group 'C' post as they possessed B.Com., Degree and MBA Degree, respectively. The same yardstick ought to have been followed in the case of the Applicant and he ought to have been appointed as First Division Assistant commensurate with his qualification. Therefore, the action of the 2nd Respondent is discriminatory, arbitrary and in violation of Article 14 of the Constitution of India.

9. In view of the above facts and circumstances, we are of the considered opinion that the applicant has made out a case for our interference. Accordingly, we proceed to pass the following:

ORDER

- (i) The application is allowed;

- (ii) The impugned endorsement bearing No.SSLR/ 15021/09/2018 dated 21.01.2019 at AnnexureA5 issued by the 2nd respondent, is quashed;
- (ii) We direct the respondents to consider the case of the applicant for the post of First Division Assistant within a period of two months from the date of receipt of the certified copy of this order."

The order impugned in the companion petition is identical. The Tribunal refers to the Circular dated 27-10-2017 and the law as laid down by different Benches of this Court and captures discrimination in the case of the petitioners while granting same relief to several others.

8. In the teeth of the Rules and the Circulars, the orders of the Tribunal which relies upon several judgments rendered by the Division Benches of this Court, it becomes necessary to notice the judicial landscape.

8.1. The Apex Court in the case of **SURYA KANT KADAM v. STATE OF KARNATAKA**¹, holds as follows:

" "

¹ (2002) 9 SCC 445

1. These appeals are directed against the impugned order of the Karnataka State Administrative Tribunal. The appellant on the death of his father was given a compassionate appointment as Second Division Assistant/Clerk, even though he had applied for the post of Sub-Inspector of Excise and did possess the necessary qualification for the said post. Respondents 3 and 4 whose father also died while in service were appointed similarly as Second Division Assistant/Clerk on 9-1-1978 and 19-12-1979 respectively. Those Respondents 3 and 4 while continuing as Second Division Assistant/Clerk were later on promoted/appointed as Sub-Inspector of Excise on 3-10-1987 and 27-4-1988. The appellant who had been earlier appointed on compassionate ground as Second Division Assistant/Clerk and was entitled to be considered for appointment as Sub-Inspector of Excise was not considered when Respondents 3 and 4 were appointed as Sub-Inspector of Excise. The appellant therefore moved the State Administrative Tribunal claiming that his case for appointment as Sub-Inspector of Excise be considered or in the alternative the appointment of Respondents 3 and 4 be quashed. The Tribunal considered the application of the appellant and did not grant the relief of his case being considered for appointment as Sub-Inspector of Excise. The Tribunal, however, quashed the appointment of Respondents 3 and 4 as Sub-Inspector of Excise. Against the aforesaid order, the State of Karnataka had approached this Court in special leave petition but that special leave petition stood dismissed. Respondents 3 and 4, however, approached this Court against the order quashing their appointment as Sub-Inspector of Excise. This Court, however, made some observations in that special leave petition and permitted Respondents 3 and 4 to file an application for review before the State Administrative Tribunal. Pursuant to the aforesaid order of this Court, Respondents 3 and 4 having approached the Tribunal for review of the earlier order, the Tribunal by the impugned order reviewed its earlier order and did not interfere with the appointment of Respondents 3 and 4 on the ground that the appellant has moved the Tribunal against the appointment of Respondents 3 and 4 belatedly and therefore the same could not be interfered with. It is this review order of the Tribunal which is the subject-matter of challenge in the present appeals.

2. The learned counsel for the appellant contended that even though Respondents 3 and 4's appointment could not be

assailed on the ground of belated approach by the appellant but the prayer with regard to consideration of the appellant for the post of Sub-Inspector of Excise could not have been rejected by the Tribunal. The learned counsel appearing for the State Government, on the other hand, contended that against the earlier order when the Tribunal denied the relief of considering the case of the appellant for the post of Sub-Inspector of Excise, the appellant having not moved this Court, the same has become final and therefore should not be interfered with by this Court. There is some force in the aforesaid contention of the learned counsel for the State. **But having considered the facts and circumstances of the present case and admittedly Respondents 3 and 4, who were similarly situated like the appellant and who were given compassionate appointment later than the appellant, having been appointed as Sub-Inspector of Excise, the appellant has a justifiable grievance. It is true that the appointment on compassionate ground in the State of Karnataka is not governed by any statutory rules but by a set of administrative instructions and as such is not enforceable in a court of law. But the grounds on which the appellant makes out the case for consideration of his case, is the violation of Article 14 and discriminatory treatment meted out to the appellant. It is undisputed that the date on which the appellant was given a compassionate appointment as Second Division Assistant/Clerk he had the necessary qualification for being appointed as Sub-Inspector of Excise. It is also undisputed that Respondents 3 and 4 were given appointment initially as Second Division Assistant/Clerk but later than the appellant. When the State, therefore, thought it fit to change the post of Respondents 3 and 4 and appointed them to the post of Sub-Inspector of Excise, unless there is any justifiable reason existing, there is no reason as to why the appellant should be treated with hostile discrimination. In the aforesaid circumstances, we set aside the impugned order of the Tribunal rejecting the prayer of the appellant for being considered for the post of Sub-Inspector of Excise and we direct that the State Government may consider the case of appointment of the appellant as Sub-Inspector of Excise. Be it stated, in the event he is appointed it would be prospective and he will not be entitled to any retrospective benefit.** The appeals are allowed accordingly."

The said judgment is followed by the Division Bench of this Court in the case of **THE DIRECTOR, MUNICIPAL ADMINISTRATION v. H.N. GURUPRASAD²**, wherein the Division Bench holds as follows:

" "

2. The admitted facts of the case are that the respondent writ petitioner in Writ Petition No. 32634 of 2003 when he was 19 years old and studying second year B.Com., his father who was working as a Junior Health Inspector died in harness. Hence he applied for compassionate appointment and that apart the respondent-writ petitioner was also a physically challenged person. Despite he applied on 13.06.1990 for the post of Second Division Assistant, the respondents had not considered his application immediately thereafter. In the meanwhile, he completed his degree and graduated in April 1992 and became qualified for the post of First Division Assistant. **But on 21.07.1992 the respondent without taking into consideration the degree qualification appointed him only as a Second Division Assistant, which necessitated the writ petitioner of course after joining duty in the post of Second Division Assistant to make further representation to consider him for the post of First Division Assistant. He also made a representation on 02.07.1992, but the respondents rejected the said representation. A further representation on 07.12.2001 was made requesting the respondents for appointing him as the First Division Assistant and as no orders were passed, Writ Petition No. 32634 of 2003 was filed seeking for a writ of mandamus to consider his representation to appoint him in the post of First Division Assistant.** In fact, the Commissioner of the City Municipal Corporation also by proceedings dated 09.07.1992 recommended the petitioner to the post of First Division Assistant. Taking all these facts into consideration, the learned Single Judge by order dated 14.06.2006 directed the respondents to consider the case of the petitioner for appointment as a First Division Assistant in the available vacancy within a period of eight weeks from the date of receipt

² Writ Appeal No. 2060/2006, decided on 28.01.2009

of a certified copy of the order. Hence aggrieved by the said order, the State has filed the present writ appeal.

3. According to the learned Government Advocate, as per Rule 6(4) once an appointment is made under the Karnataka Civil Services (Appointment on Compassionate Grounds) Rules, 1996, it shall be final and no fresh appointment to a different post or a higher post under these rules shall be permissible.

4. In our considered opinion, the above rule is not attracted to the facts of this case at all. If the authorities had overlooked the qualification the applicant already possessed at the time of his appointment and also ignored the representation of the applicant mainly because the authorities have passed an appointment order to a lower post, will not take away the right of the petitioner to claim the higher post. Therefore, in our considered opinion Section 6(4) of the Karnataka Civil Services (Appointment on Compassionate Grounds) Rules, 1996 is not applicable to the facts of the present case. Therefore, we do not find any justification to interfere with the order of the learned Single Judge. But at the same time, we find the respondent-writ petitioner was unnecessarily harassed for the past 17 years by the respondents. Hence we are of the considered opinion that it is a fit case to award exemplary costs of Rs. 10,000/-. Writ petition is dismissed with costs of Rs. 10,000/-."

8.2. A learned single Judge in the case of **SMT. B MAMTAZ v. THE DIRECTOR OF MUNICIPAL ADMINISTRATION**³, has held as follows:

" "

3. It is submitted that several similarly situated persons as that of the petitioner had obtained orders of

³ Writ Petition No. 6576/2021, decided on 14th July 2022

rectification of their appointment and reliance is placed on the order of this court in the case of H.N.Guruprasad v. The Directorate of Municipal Administration and Others (W.P.No.32634/2003 disposed off on 14.06.2006). The petitioner submits that the appeal filed against W.P.No.32634/2003 has been rejected. Thus the order in Guruprasad's case has attained finality. The petitioner submits that W.P.No.8726/2018 was filed which was allowed as per the order at Annexure-'H' on 20.10.2020. The petitioner had challenged the order of 17.06.2017 by the respondent-State declining to accede to the request of the petitioner to appoint her to the post of First Division Assistant as against Second Division Assistant to which she was appointed. **The court after detailed consideration has referred to the order passed in Guruprasad's case in W.P.No.32634/2003 at Para 8 and has specifically adverted to the contention of the respondent regarding Rule 6 (4) of the Karnataka Civil Services (Appointment on Compassionate Grounds) Rules, 1996 ("the Rules" for short) and has recorded a finding at Para 9 and 10 as follows:**

9. The undisputed facts of the case on hand is that, the petitioner is similarly placed as that of the petitioner in the aforestated writ petition i.e., even the petitioner herein is holding a qualification of degrees in Bachelor of Arts and Bachelor of Education. In terms of the aforestated judgment and the Government Order dated 24.04.2003, she was entitled to be considered for the post of First Division Assistant when she had applied for an appointment on compassionate ground. That having not been done and when a request was made by the petitioner to follow the judgment of this Court (supra), the request is turned down on the ground that her request is made after 16 years of her appointment and accepting the same.

10. The State Government had also preferred W.A.No.2060/2006, before a learned Division Bench contending the very same contentions urged in the present case which were negatived by the learned Division Bench by its judgment dated 28.01.2009, in terms of Rule 6(4) of the said Rules and held that the said Rule 6(4)

is not applicable to the case on hand. The issue and reasoning rendered by the learned Division Bench (supra) covers the case of the petitioner herein on all fours.

4. The Coordinate Bench in the earlier writ petition has considered the contention relating to applicability of Rule 6 (4) of the Rules and has set aside the endorsement dated 17.06.2017 and directed the State to reconsider the matter in accordance with law and pass appropriate orders keeping in mind the observations made and in terms of the law laid down by this court in the aforesaid judgment. Accordingly, it is clear that reliance on Section 6 (4) of the Rules was turned down and consideration was directed to be made in terms of the law laid down in Guruprasad's case as upheld in W.A.No.2060/2006 dated 28.01.2009. Subsequent to the said judgment, fresh endorsement has been made at Annexure-'K', a perusal of which would show that the State has once again relied on Rule 6 (4) of the Rules to negative the claim of the petitioner.

5. It is not open for the State after having suffered an order in W.P.No.8726/2018 to urge any fresh grounds. As the order in W.P.No.8726/2018 has attained finality, the question of recourse to Rule 6 (4) would not arise as regards to petitioner's claim.

6. Learned AGA relies on the order in W.P.No.75144/2013 dated 20.02.2013 in the case of Bharati v. State of Karnataka and Ors. That again is an order that was not relied upon in the previous round of litigation while W.P.No.8726/2018 was disposed off

7. However, it is noticed that the *lis* between the petitioner and respondent for all practical purposes has attained finality in view of the order passed by this court and it would not be appropriate to re-open the settled position between the petitioner and respondent as settled in W.P.No.8726/2018.

8. Accordingly, the endorsement at Annexure-'K' is set aside. The respondent to pass fresh order without re-opening

the settled position as found in W.P.No.8726/2018 and pass order as regards the appointment of petitioner as First Division Assistant. **The appointment shall be made effective from the date of appointment with continuity of service however, without any financial benefits. The order to be passed within a period of not later than three months from today."**

This is challenged by the State before the Division Bench. The Division Bench in **THE DIRECTOR OF MUNICIPAL ADMINISTRATION v. SMT. B. MUMTAZ⁴**, rejecting the writ appeal holds as follows:

" "

6. Ismail Sab was working in respondent No.2 – Town Municipal Council and he died on 02.02.1999. Respondent No.1 after demise of her father, respondent No.1 submitted a representation for compassionate appointment. Appellant No.2 recommended for appointment of the respondent on compassionate ground. The appellants appointed respondent No.1 as a Second Division Assistant on compassionate ground on 11.05.2001. Subsequently, respondent No.1 on the basis of the order passed by this Court in W.P.No.8726/2018 submitted a representation to consider the case of respondent No.1 in terms of the order passed in W.P.No.8726/2018. The appellants issued an endorsement rejecting the representation of respondent No.1 vide Annexure-H. The similarly placed petitioner filed a writ petition in W.P.No.8726/2018 for appointment as a First Division Assistant on the basis of her educational qualification. The said writ petition came to be allowed vide order dated 20.10.2020. **The learned Single Judge referring to the order passed in W.P.No.32634/2003 at para No.8 considered the contentions of the appellants regarding Rule 6(4) of the Karnataka Civil Services (Appointment on Compassionate**

⁴ Writ Appeal No. 152/2023, decided on 07.02.2023

Grounds) Rules, 1996 (for short 'the Rules') and recorded a finding at para Nos.9 and 10 and has set aside the endorsement and directed the State to reconsider the matter in accordance with law and pass appropriate orders. The learned Single Judge also recorded that the State Government aggrieved by the order passed by the learned Single Judge in W.P.No.32634/2003, preferred a writ appeal in W.A.No.2060/2006. The Co-ordinate Bench dismissed the writ appeal filed by the Government vide order dated 28.01.2009 and held that Rule 6(4) of the Rules is not applicable to the case on hand. The issue and reasoning rendered by the Division Bench (supra) covers the case of respondent No.1 herein. The learned Single Judge placing reliance on the order passed by the learned Single Judge and the order passed in W.A.No.2060/2006 held that respondent No.1 is entitled for appointment on a compassionate ground as a First Division Assistant. Further, the learned Single Judge has also observed that the appointment shall be made effective from the date of appointment with continuity of service without any financial benefits. The learned Single Judge placing reliance on the orders of the Co-ordinate Bench, which has attained the finality. The learned Single Judge was justified in passing the impugned order. Accordingly, we do not find any error in the impugned order."

8.3. Another Division Bench in **STATE OF KARNATAKA v. JAMADAGNI**⁵, answering a challenge to the order of the Tribunal, holds as follows:

"

4. Learned Additional Government Advocate referring to Rule 6[4] of the Karnataka Civil Services [Appointment on Compassionate Grounds] Rules, 1996. ['Rules' for short] argued that once the appointment made, it is final and no fresh appointment to a different

⁵ Writ Petition No. 34332/2015, decided on 26.02.2021

post or higher post under Rules shall be permissible. Accordingly, the application of the respondent was rightly rejected. However, the Tribunal refused to appreciate the tenor of the endorsement, quashed the same much against the prevailing Rules.

5. Learned counsel for the respondent justifying the impugned order submitted that the Tribunal on analyzing the material on record, more particularly, the minimum qualification of SSLC required for the post of Group-C employee which indeed was possessed by him during the pendency of the application i.e., before the issuance of the appointment order, has allowed the application.

6. We have heard the learned counsel appearing for the parties and perused the material on record.

7. The undisputed facts are that the applicant/respondent has filed an application on 24.07.1998 pursuant to the death of his father on 03.03.1998 and passed the SSLC examination during October 1999 prior to the issuance of the appointment order on 11.03.2003.

8. Rule 6[4] of the Rules reads thus:

"6[4]. Appointment once made under these rules shall be final and no fresh appointment to a different post or higher post under these rules shall be permissible."

9. Considering the said Rule, the Tribunal has held that the said Rule would be applicable to address a situation where the applicant acquires the qualification subsequent to his appointment which in our opinion cannot be held to be unjustifiable. It is not in dispute that the respondent/applicant had modified his application after passing the SSLC examination, acquiring the eligible qualification for the group-C post prior to the order of appointment to a Group-D post. The correspondences made as per Annexures-A3 to A14 would indicate the same. Hence, while issuing the order of appointment, the eligible qualification possessed by the respondent/applicant ought to have been

considered and in terms of Rule 4[4], appointment ought to have been offered to a group C post.

10. Considering these aspects, the Tribunal rightly allowed the application which cannot be faulted with.

Writ petition is devoid of merits. Accordingly stands dismissed.

The respondent No.2 is directed to consider the appointment of the respondent to a Group-C post in modification of earlier appointment order and issue appropriate orders order in accordance with law, within four months from the date of receipt of certified copy of the order."

8.4. Then comes the latest judgment of the Apex Court in the case of **DIRECTOR OF TOWN PANCHAYAT v. M. JAYABAL⁶**, wherein the Apex Court holds as follows:

"....

CLAIM FOR HIGHER POST

8. It is not in dispute that after the death of the employees in service, the dependent family members were offered appointment to a post for which an application was made by them. They had joined on that post without raising any objection. Meaning thereby, the financial crisis of the family was over as one of the dependents of the deceased was offered appointment on compassionate basis in terms of the policy existing at the time of consideration of their application.

8.1. The next issue which requires consideration by this Court is whether the dependent family member of a deceased employee, after being appointed on a post on compassionate basis, can later on seek indulgence of the employer to appoint him on a higher post.

⁶ 2025 SCC OnLine SC 2794

9. The law on the issue is well-settled. **The issue as to whether a second option can be exercised by the dependent family member of the deceased employee, once option for compassionate appointment has already been exercised and the dependent family member of the deceased joined on the post to which appointment was given, was considered by this Court in *State of Rajasthan v. Umrao Singh*¹⁰. In this case, the deceased was working as Sub-Inspector, CID. On account of his death during service, application for appointment on compassionate basis was made. The dependant was offered appointment on the post of L.D.C. The same was accepted and the incumbent joined on the post. Later, he requested for consideration of his case for appointment on the post of Sub-Inspector, being eligible for the same. This Court negated the claim holding that once right for consideration for appointment on compassionate post was consummated, any further or second consideration for a higher post on the ground of compassion would not arise.** The relevant paragraph 8 is extracted below:

"8. Admittedly the respondent's father died in harness while working as Sub-Inspector, CID (Special Branch) on 16-3-1988. The respondent filed an application on 8-4-1988 for his appointment on compassionate ground as Sub-Inspector or LDC according to the availability of vacancy. **On a consideration of his plea, he was appointed to the post of LDC by order dated 14-12-1989. He accepted the appointment as LDC. Therefore, the right to be considered for the appointment on compassionate ground was consummated. No further consideration on compassionate ground would ever arise. Otherwise, it would be a case of "endless compassion".** Eligibility to be appointed as Sub-Inspector of Police is one thing, the process of selection is yet another thing. Merely because of the so-called eligibility, the learned Single Judge of the High Court was persuaded to the view that direction be issued under proviso to Rule 5 of Rules which has no application to the facts of this case."

(emphasis supplied)

10. In view of the law laid down by this Court, it stands clarified that the once the right of an applicant to be considered for appointment on compassionate grounds has been consummated, no further consideration is warranted. Once dependent of a deceased employee is offered employment on compassionate basis, his right stood exercised. Thereafter, no question arises for seeking appointment on a higher post. Otherwise, it would be a case of 'endless compassion'.

WHETHER THE DEPENDANT OF A DECEASED EMPLOYEE CAN SEEK EMPLOYMENT ON COMPASSIONATE BASIS ON A HIGHER POST ?

11. This Court has also opined on the issue whether a dependent family member of a deceased employee can seek compassionate appointment on a post higher than the post which the deceased was holding, merely on the ground that he fulfils the criteria of such higher post. The opinion expressed is that the same will run contrary to the very object of grant of compassionate appointment, which is provided to enable the family of the deceased employee to tide over sudden financial crisis. Employment on compassionate basis is provided only on account of humanitarian consideration. Relevant paragraph of the judgment of this Court in *Premalata* (Supra) is extracted below:

"10.2 In a given case, it may happen that the dependant of the deceased employee who has applied for appointment on compassionate ground is having the educational qualification of Class II or Class I post and the deceased employee was working on the post of Class/Grade IV and/or lower than the post applied, in that case the dependant/applicant cannot seek the appointment on compassionate ground on the higher post than what was held by the deceased employee as a matter of right, on the ground that he/she is eligible fulfilling the eligibility criteria of such higher post. The aforesaid shall be contrary to the object and purpose of grant of appointment on compassionate ground which as observed hereinabove is to enable the family to tide over the sudden crisis on the death of the breadearner.

As observed above, appointment on compassionate ground is provided out of pure humanitarian consideration taking into consideration the fact that some source of livelihood is provided and family would be able to make both ends meet."

12. Keeping in view the core objective behind appointment on compassionate basis, as has been discussed in a catena of judgments of this Court, it is well settled that compassionate appointment is a relief against immense financial hardship caused by the sudden and unforeseen loss of the earning member of a family. **In such event, when a dependant family member of the deceased employee is provided appointment on compassionate basis, it is done in order to ensure that the family members are not subjected to impoverishment. Therefore, such appointment which is arising out of exceptional circumstances, cannot be used as a ladder to climb up in seniority by claiming a higher post merely on the basis that he/she is eligible for such post.**

....

NEGATIVE DISCRIMINATION

16. Another argument raised by learned counsel for the respondents/M. Jayabal & S. Veeramani was to claim parity with another employee who had been granted similar benefit. The law on the subject is well-settled. No one can approach the court and base his claim on negative discrimination merely because some relief has been granted to a person who may not be entitled to the same. This Court in *Tinku's case* (supra) opined that wrongful conferment of a right or claim on someone would not entitle a similar claim to be put forth before a court and nor would the court be bound to accept such a plea. The relevant paragraph is extracted below:

"11. The very idea of equality enshrined in Article 14 is a concept clothed in positivity based on law. It can be invoked to enforce a claim having sanctity of law. No direction can, therefore, be issued mandating the State to perpetuate any illegality or irregularity committed in favour of a person, an individual, or even a group of

individuals which is contrary to the policy or instructions applicable. Similarly, passing of an illegal order wrongfully conferring some right or claim on someone does not entitle a similar claim to be put forth before a court nor would court be bound to accept such plea. The court will not compel the authority to repeat that illegality over again. If such claims are entertained and directions issued, that would not only be against the tenets of the justice but would negate its ethos resulting in the law being a causality culminating in anarchy and lawlessness. The Court cannot ignore the law, nor can it overlook the same to confer a right or a claim that does not have legal sanction. Equity cannot be extended, and that too negative to confer a benefit or advantage without legal basis or justification."

(emphasis supplied)

17. Reference for the purpose can also be made to the judgment of this Court in *Jyostnamayee Mishra v. State of Odisha*¹². The relevant extract is reproduced herein below:

"31. Another argument was raised while referring to two communications dated 28.06.1999 appointing Ms. Jhina Rani Mansingh and Sri Lalatendu Rath as Tracer on promotion, claiming to be from the post of Peon, on the basis of which the petitioner is claiming violation of Article 14, namely the discrimination. Suffice to add, this Court cannot put a stamp on the illegalities committed by the department while perpetuating the same. A litigant coming to the Court cannot claim negative discrimination seeking direction from the Court to the department to act in violation of the law or statutory Rules. It is a settled proposition of law that Article 14 does not envisage negative equality. Reference for the purpose can be made to a judgment of this Court in *R. Muthukumar v. The Chairman and Managing Director TANGEDCO*. Relevant para thereof is extracted below:

"28. A principle, axiomatic in this country's constitutional lore is that there is no negative equality. In other words, if there has been a benefit or advantage conferred on one or a set of people, without legal basis or justification, that benefit cannot multiply, or be relied upon as a principle of parity or equality. In *Basawaraj v. Special Land Acquisition Officer*, this court ruled that:

"8. It is a settled legal proposition that Article 14 of the Constitution is not meant to perpetuate illegality or fraud, even by extending the wrong decisions made in other cases. The said provision does not envisage negative equality but has only a positive aspect. Thus, if some other similarly situated persons have been granted some relief/benefit inadvertently or by mistake, such an order does not confer any legal right on others to get the same relief as well. If a wrong is committed in an earlier case, it cannot be perpetuated."

(emphasis supplied)

18. From the position of law as enunciated above, it is evident that the foundation of any claim based on equity has to be devoid of the element of negative discrimination. **The respondents in the present case are heirs of the deceased employees who were appointed on compassionate basis upon the death of their fathers. Their appointment, in its own self, was a sufficient relief to serve the actual purpose behind compassionate appointments. The further claim of seeking appointment on a higher post cannot be based on the sole premise that another similarly placed person was granted such benefit. It is a settled proposition of law that an illegality committed by an authority cannot be validated and further perpetuated by its extension to other similarly placed persons. Thus, the contention of respondents that they may be appointed on a higher post in view of similar benefit being granted to another person is wholly misplaced and unsustainable in the eyes of law.**

19. From the law on the issue which we have referred to in the aforesaid paragraphs, it is clearly culled out that illegal orders, passed in case of similarly situated person, will not confer any right upon the other person to come to the court and enforce the same claiming discrimination. Such plea cannot be accepted as the authorities cannot be directed to perpetuate the wrong committed by them. The party in such cases may have different remedies. We are not dilating on the same."

The Apex Court, on surveying the entire spectrum of law governing compassionate appointment, the contours within which such appointment may be granted, and the plea founded upon negative equality, has unequivocally held that once the right to **compassionate appointment is exercised and the benefit is availed, the appointee cannot thereafter seek a higher post merely on the strength of possessing a higher qualification. Compassionate appointment is not a reservoir from which benefits can be drawn in perpetuity. There is, in law, no concept of endless compassion.**

8.5. A Division Bench of this Court in the case of **STATE OF KARNATAKA v. MADHU BADIGER**⁷, has held as follows:

"....

6. Having heard the learned counsel for the Parties and on perusal of the entire writ petition papers, the points that would arise for consideration are:

- i) Whether the respondent, having accepted the appointment to Group-D post, could seek appointment to a higher post afresh?
- ii) Whether the impugned order passed by the Tribunal requires interference?

⁷ 2025 SCC OnLine Kar 20842

7. The answer to the above questions would be in the negative and affirmative respectively for the following reasons:

- (a) In the State of Karnataka, appointment on compassionate grounds is governed by 1996 Rules. Rule 5 provides for making an application for appointment. The application seeking compassionate appointment shall be made by the dependent of a deceased government servant within one year from the date of death of the government servant, and in case of a minor he must have attained the age of 18 years within two years from the date of death of government servant and he must make an application within two years thereafter. **Rule 3, which specifies the eligibility criteria for appointment on compassionate grounds, makes it abundantly clear that appointment under the 1996 Rules shall not be claimed as a matter of right and shall not be given as a matter of course.** Rule 6(4) and Rule 6(7) of 1996 Rules read as under:

"6. Appointment by the Competent Authority.

(1) x x x x x

(2) x x x x

(4) *Appointment once made under these rules shall be final and no fresh appointment to a different post or higher post under these rules shall be permissible.*

(5) x x x x

(6) x x x x

(7) *The appointment, under these rules shall be made in accordance with the provisions that are prevailing on the date of application."*

Above Rule 6(4) would make it clear that appointment once made under the 1996 Rules shall be final and no fresh appointment to a different post or higher post under 1996 Rules shall be permissible. Under sub-rule (7) of Rule 6 of the Rules, it is made abundantly clear that appointment on compassionate grounds under the 1996 Rules

shall be made in accordance with the provisions that are prevailing on the date of application.

- (b) In the case on hand, the respondent made an application on 06.12.2021 claiming appointment on compassionate grounds on the death of her husband who was working as SDA in the Office of the petitioner No. 5-Deputy Conservator of Forests, Karnataka State Forest Academy, Dharwad. It is not in dispute that, as on the date of making an application the respondent possessed qualification of SSLC. The respondent acquired the qualification of II Year PUC only in the month of April, 2023. In terms of Rule 5 of 1996 Rules, the application for appointment on compassionate grounds shall be made within one year from the date of death of the government servant. The application filed by the respondent for compassionate appointment is within time. **In terms of the said application, the petitioner possessed the qualification of SSLC. Considering the said application and qualification of the respondent as on the date of making the application, the respondent was appointed to Group-D post by order dated 07.10.2023. The respondent accepted the said appointment as Group-D employee and the respondent is working as such in the petitioner-department.**
- (c) **Rule 6(4) of the 1996 Rules makes it clear that once the appointment is made under the 1996 Rules, the same would be final and no fresh appointment to a different post or higher post is permissible.**
- (d) **Rule 6(7) of the 1996 Rules would state that appointment under 1996 Rules shall be made in accordance with the provisions that are prevailing as on the date of the application. The said sub-rule (7) of Rule 6 was inserted by Notification dated 09.04.2021, whereas the respondent's application was dated 06.12.2021. Therefore, in terms of the said**

Rules, the application of the respondent shall have to be considered as on the date of her application i.e., on 06.12.2021 on which date the respondent possessed the qualification of SSLC. Taking note of the SSLC qualification, the respondent was rightly appointed to Group-D post.

- (e) The Tribunal placing reliance on the decision of the Hon'ble Apex Court in *N.C. Santhosh's case* (supra) to say that consideration of an application for appointment has to be with regard to Rules prevailing on the date of consideration and not on the date of filing the application. Even assuming that Rule applicable as on the date of consideration of the application is taken into consideration, Rule 6(7) was in force. However, the said decision would have no application to the facts and circumstances of the present case since subsequent to the said decision Rule 6 is amended and sub-rule (7) is inserted to say that the application for compassionate appointment shall be considered in accordance with the provisions that were prevailing on the date of the application.
- (f) For the reasons recorded above, the Tribunal is not justified in allowing the application. The Circular on which the Tribunal placed reliance would only state that the application for compassionate appointment shall be considered based on the qualification possessed by such candidates. In the instant case, the respondent's application for compassionate appointment was considered on 06.12.2021, taking note of the respondent's qualification as on that date i.e., SSLC.
- (g) **The Hon'ble Apex Court in *State of Rajasthan v. Umrao Singh*², was considering the case of compassionate appointment and in the course of its order, it is observed that once a right has consummated, any further or second consideration for a higher post on the ground of compassion would not arise. The**

relevant Paragraphs No. 8 and 9 of the said decision read as under:

*"8. Admittedly the respondent's father died in harness while working as Sub-Inspector, CID (Special Branch) on 16-3-1988. The respondent filed an application on 8-4-1988 for his appointment on compassionate ground as Sub-Inspector or LDC according to the availability of vacancy. **On a consideration of his plea, he was appointed to the post of LDC by order dated 14-12-1989. He accepted the appointment as LDC. Therefore, the right to be considered for the appointment on compassionate ground was consummated. No further consideration on compassionate ground would ever arise. Otherwise, it would be a case of "endless compassion". Eligibility to be appointed as Sub-Inspector of Police is one thing, the process of selection is yet another thing. Merely because of the so-called eligibility, the learned Single Judge of the High Court was persuaded to the view that direction be issued under proviso to Rule 5 of Rules which has no application to the facts of this case.***

9. Since both the sides relied on Naresh Kumar Bali's case, we will now refer to the same. We had indicated our mind in that very ruling in Paragraph 15 of the said judgment. It reads as under : (SCC p. 452, Para 15)

"Though the respondent claimed that he had applied for the post of a teacher the Subordinate Service Selection Board had not chosen him for the post of teacher because he did not have the requisite qualification. In fact, the respondent did not object to his appointment as a clerk and his claim for consideration for the post of teacher was one year after his appointment. Thus, the appointment on compassionate

ground as per the scheme had been completed."

(emphasis supplied)

Therefore, once the right has consummated as we indicated earlier, any further or second consideration for a higher post on the ground of compassion would not arise."

- (h) Subsequently, the Hon'ble Apex Court, in *I.G. (Karmik) v. Prahalad Mani Tripathi*³, was again considering a case of compassionate appointment and placing reliance on *Umrao Singh's* case (supra) at Paragraph 7, 8, 9 and 12 has observed as follows:

"7. Public employment is considered to be a wealth. It in terms of the constitutional scheme cannot be given on descent. When such an exception has been carved out by this Court, the same must be strictly complied with. Appointment on compassionate ground is given only for meeting the immediate hardship which is faced by the family by reason of the death of the bread earner. **When an appointment is made on compassionate ground, it should be kept confined only to the purpose it seeks to achieve, the idea being not to provide for endless compassion.**

8. In *National Institute of Technology v. Niraj Kumar Singh* this Court has stated the law in the following terms : (SCC p. 487, Para 16)

"16. All public appointments must be in consonance with Article 16 of the Constitution of India. Exceptions carved out therefore are the cases where appointments are to be given to the widow or the dependent children of the employee who died in harness. **Such an exception is carved out with a view to see that the family of the deceased employee who has died in harness does not become a destitute. No appointment,**

therefore, on compassionate ground can be granted to a person other than those for whose benefit the exception has been carved out. Other family members of the deceased employee would not derive any benefit thereunder."

9. In State of Rajasthan v. Umrao Singh this Court has categorically stated that once the right is consummated, any further or second consideration for higher post on the ground of compassion would not arise.

12. Furthermore, the respondent accepted the said post without any demur whatsoever. He, therefore, upon obtaining appointment in a lower post could not have been permitted to turn round and contend that he was entitled for a higher post although not eligible therefor. A person cannot be appointed unless he fulfils the eligibility criteria. Physical fitness being an essential eligibility criteria, the Superintendent of Police could not have made any recommendation in violation of the rules. Nothing has been shown before us that even the petitioner came within the purview of any provisions containing grant of relaxation of such qualification. Whenever, a person invokes such a provision, it would be for him to show that the authority is vested with such a power."

- (i) **The Hon'ble Apex Court has made it clear that the appointee, once having accepted the compassionate appointment without any demur in a lower post cannot turn around and contend that he would be entitled to a higher post."**

The Division Bench holds that , Under Rule 6(4) of the 1996 Rules, once an appointment is made, it attains finality and no fresh appointment to a different or higher post is permissible, while Rule

6(7) anchors consideration to the provisions prevailing on the date of application. Therefore, where an applicant, possessing SSLC qualification on the date of application, is appointed to a Group-D post and accepts such appointment, a qualification acquired subsequently cannot resurrect an exhausted claim for compassionate appointment or generate a right to a higher post.

8.6. The learned counsel appearing for the respondents would, however, place reliance upon a subsequent judgment of the Division Bench of the High Court of Allahabad in **RADHA RANI v. STATE OF U.P.**⁸ wherein the Division Bench holds as follows :

"....

3. Undeniably, the petitioner's husband - Pragya Bhushan Maurya, died in harness on 27.12.2020. Also, it is not disputed to the respondents that arising from such occurrence, the petitioner became entitled to claim appointment on compassionate basis. Further, under the existing policy of the State Government, the petitioner could claim appointment to the post of Assistant Teacher subject to her holding requisite eligibility. Arising from the death of said Pragya Bhushan Maurya on 27.12.2020, the original petitioner/appellant filed her claim on 05.07.2021 with reference to her claim to be appointed Assistant Teacher, the DIOS, Deoria, vide his communication dated 09.01.2023, sought necessary directions from the Secretary, U.P. Basic Education Board, Prayagraj - if the original petitioner/appellant could be granted compassionate appointment on the post of Assistant Teacher based on her educational qualification. Vide order dated 28.02.2024, she was

⁸ **2026 SCC OnLine All 2606**

found eligible to compassionate appointment. However, she was offered appointment on a Class IV post.

4. According to the petitioner, arising from her poor financial condition, she accepted that appointment, against her eligibility to be appointed Assistant Teacher. Thus, she first sought information under Right to Information Act, as to availability of vacant post of Assistant Teachers and thereafter, on 24.06.2025, pressed her claim to be granted compassionate appointment on the post of Assistant Teacher (and not Class IV post). Since that claim remained undecided, she approached the writ Court by means of *Writ - A No. 12986 of 2025* that has given rise to the present intra Court appeal.

5. Learned single judge has dismissed the writ petition on the strength of *Suneel Kumar v. State of U.P.*, (2022) 17 SCC 280 : AIR 2022 SC 5416 and *State of U.P. v. Smt. Premlata*, (2022) 1 SCC 30.

6. Submission is, it is well settled principle - compassionate appointment may be granted commensurate to the status of the deceased employee and the qualifications of the claimant. Reliance has also been placed on *Surya Kant Kadam v. State of Karnataka*, (2002) 9 SCC 445 wherein it has been observed as below:

"It is undisputed that the date on which the appellant was given a compassionate appointment as Second Division Assistant/Clerk he had the necessary qualification for being appointed as Sub-Inspector of Excise. It is also undisputed that Respondents 3 and 4 were given appointment initially as Second Division Assistant/Clerk but later than the appellant. When the State, therefore, thought it fit to change the post of Respondents 3 and 4 and appointed them to the post of Sub-Inspector of Excise, unless there is any justifiable reason existing, there is no reason as to why the appellant should be treated with hostile discrimination. In the aforesaid circumstances, we set aside the impugned order of the Tribunal rejecting the prayer of the appellant for being considered for the post of Sub-Inspector of Excise and we direct that the State Government may consider the case of appointment of the appellant as Sub-Inspector of Excise. Be it stated, in the event he is appointed it would be prospective and he

will not be entitled to any retrospective benefit. The appeals are allowed accordingly."

(emphasis supplied)

7. With respect to the decision of *Suneel Kumar* (supra), it has been submitted, the ratio in that decision is clearly inapplicable to the present case inasmuch as here the deceased was an Assistant Teacher. Petitioner has not sought compassionate appointment on a higher post. In that regard, Supreme Court had observed as below:

"At the same time, as far as the question relating to the entitlement as it were of the appellant to be considered to the post of Gram Panchayat Officer is concerned, it is without doubt a post borne in Class III. The father of the appellant was working as a Sweeper borne in Class IV post. We have noticed the view taken by this Court in *Premlata* [State of U.P. v. *Premlata*, (2022) 1 SCC 30 : (2022) 1 SCC (L&S) 13]. ***In other words, the law as declared is to the effect that the words "suitable employment" in Rule 5 must be understood with reference to the post held by the deceased employee. The superior qualification held by a dependent cannot determine the scope of the words "suitable employment".***"

(emphasis supplied)

8. In *Smt. Premlata* (supra), again, the principle laid down in *Suneel Kumar* (supra) has been applied. **While considering a suitable post, the status of the deceased employee is a relevant factor as deprive the claimant to claim compassionate appointment on a higher post but equally qualification held by the claimant, may not be disregarded to grant compassionate appointment on a post equivalent to that held by the deceased employees, subject of course to the applicable Scheme benefiting the same.**

9. Learned counsel for the respondents further relied on *Director of Town Panchayat v. M Jayabal etc.*, 2025 SCC OnLine SC 2794.

10. Having heard learned counsel for the parties and having perused the record, in the first place, we do not find the claim of the petitioner to be barred either by the principle of law laid down in *Suneel Kumar* (supra), *Smt. Premlata* (supra) and *M Jayabal* (supra). **Undeniably, the original petitioner/appellant holds eligibility qualification - to be appointed Assistant Teacher. That claim has yet not been tested on merits. Second, undeniably, the husband of the present petitioner/appellant did hold the post of Assistant Teacher, on the date of occurrence of his death, on 27.12.2020. Third, it is also not disputed that the original petitioner/appellant had prayed to be granted appointment on the post of Assistant Teacher, on compassionate consideration. That is self-apparent from the letter of the DIOS, Deoria dated 09.01.2023. Fourth, thus upon being granted compassionate appointment on Class IV post, on 28.02.2024, the petitioner cannot be seen to have raised a fresh claim - for any higher post. Rather, she had reiterated her original claim - to be appointed Assistant Teacher. To that extent, she remained partially aggrieved by the order granting compassionate appointment dated 28.02.2024. It is that partial grievance which the petitioner sought to ventilate by filing subsequent representation.**

11. To the extent the petitioner had neither made a fresh claim nor waived her right to pursue her original claim - to be granted compassionate appointment, the ratio of *M Jayabal* (supra) is distinguishable. In that decision, paragraph 20 reads as below:

"20. With reference to the above enunciation of law, if the facts of the case are considered, M. Jayabal, respondent No. 1 in C.A. No. 12640 of 2025 was appointed on compassionate basis on the post of Sweeper, for which he applied and after joining and working on that post, he applied for a higher post after a gap of three years. Similarly, in the case of S. Veeramani, respondent No. 1 in C.A. No. 12641 of 2025 who was also appointed on compassionate basis on the post of Sweeper, for which he applied and after joining and working on that post, he has applied for the higher post after a gap of nine years."

(emphasis supplied)

12. Clearly, in that case, the claimant had himself applied to be granted compassionate appointment on the lower grade post – of Sweeper. He was granted that appointment. Thereafter, he not joined and worked on that post. Later, he made a fresh claim, after lapse of three years – seeking appointment to a higher post commensurate to his eligibility. There, the claim for compassionate appointment had been allowed in/all. Later, another claim (for higher post) was made, that too after three years. Such are not the facts, here.

13. As noted above, the principle of law remains that on the death of an Assistant Teacher, his legal representative may remain entitled to be applied for compassionate appointment as teaching faculty. Here, original petitioner/appellant had applied for such appointment. However, upon being granted compassionate appointment to a Class IV post, her grievance remained partially redressed. To that extent, the original petitioner/appellant pressed her remaining claim, it merits consideration, on its own strength.

14. Accordingly, the order of the learned single judge suffers from an error on principle. It is accordingly set aside. This special appeal and writ petition are **disposed of** with the direction upon respondent no. 4 to proceed to deal with and decide the petitioner's claim on its own merits, as expeditiously as possible, preferably within a period of three months, by a reasoned and speaking order."

(Emphasis supplied at each instance)

The judgment in **RADHA RANI**, though rendered in circumstances which may bear some resemblance to the case at hand, cannot persuade us either to travel beyond the law declared by the Apex

Court or to place our imprimatur upon the order passed by the Tribunal.

9. The judgments concerning compassionate appointment, noticed hereinabove, speak with one voice that appointment on compassionate grounds must necessarily be within the four corners of the Scheme governing such appointment. The Scheme, it is trite, cannot be expanded by judicial interpretation to confer a benefit which it does not contemplate.

10. In the cases at hand, the breadwinners of the respective families died in harness, one in March 2017 and the other in June 2017. The Scheme/Circular governing compassionate appointments contemplated appointment of an eligible dependant to a Group-C post. The claims of the respondents were accordingly considered and they came to be appointed, on different dates in 2018, as **Second Division Assistants**, which admittedly are Group-C posts. Their appointments were, therefore, squarely in consonance with the governing Scheme.

11. The circumstance that the respondents possessed qualifications higher than what was necessary for appointment as Second Division Assistants would not clothe them with a right to demand appointment as First Division Assistants. **Qualification may confer eligibility; it does not, by itself, create an entitlement to a particular post under a scheme of compassionate appointment.** The tenor of the Scheme is appointment to a Group-C post and not appointment to the highest Group-C post commensurate with the educational qualification possessed by the dependant. To read such a right into the Scheme would be to rewrite it.

12. The situation would perhaps have presented a different complexion, had the respondents, despite the Scheme contemplating appointment to Group-C posts, been appointed to Group-D posts. Such a case may furnish a foundation to contend that the appointment itself was contrary to the governing Circular. It was in such circumstances that one of us, sitting singly, in **INDIRA P. NUNGARI v. STATE OF KARNATAKA — W.P. No.112468 of 2017, decided on 13-10-2025**, considered the

case of a petitioner who had been appointed as an Attender despite her qualification, claim and recommendation being for the post of Second Division Assistant, and directed consideration of her appointment to the latter post. The factual foundation of that decision is conspicuously absent here. **INDIRA P. NUNGARI**, therefore, can lend no assistance to the respondents. What governs the controversy at hand is the declaration of law by the Apex Court in **JAYABAL** *supra*.

13. There is yet another formidable impediment to the claims of the respondents — **delay**. The respondents accepted their appointments as Second Division Assistants in the year 2018 and entered service pursuant thereto. Though representations appear to have been submitted from time to time seeking appointment to the higher post of First Division Assistant, they never approached any judicial forum seeking enforcement of the alleged right or even a direction for consideration of such representations. They continued in the posts accepted by them for nearly six years and approached the Tribunal only in the year 2024. Repeated representations cannot breathe life into a cause of action which has long since

become stale. A litigant cannot keep a dead cause of action alive by periodically addressing representations and thereafter seek adjudication at a time of his choosing. Section 21 of the Administrative Tribunals Act, 1985 ('Act' for short) erects a statutory prescription of limitation. An application beyond the stipulated period can be entertained only when sufficient cause for the delay is demonstrated in the manner contemplated by sub-section (3).

14. A Coordinate Bench of this Court in **UNION OF INDIA v. SWAPNIL - 2025 SCC OnLine Kar 21995**, while considering Section 21 of the Act, set aside an order of the Tribunal which had entertained an application more than five years after the cause of action had arisen, without there being an application seeking condonation of delay and without sufficient cause being demonstrated.

15. The same vice permeates the proceedings at hand. The respondents knocked at the doors of the Tribunal only after allowing nearly six years to pass from the date on which they consciously accepted appointments as Second Division Assistants. The Tribunal,

notwithstanding the statutory interdiction contained in Section 21, entertained the applications and granted relief. Such an exercise cannot be countenanced.

16. The next plank of the respondents' submission is that the State itself has, in certain instances, transposed persons appointed as Second Division Assistants to the cadre of First Division Assistants on the strength of their educational qualifications and, therefore, even one such instance would entitle the respondents to identical treatment. The submission is noted only to be rejected.

Article 14 embodies positive equality; it does not perpetuate illegality through negative equality. If the State has erroneously or illegally conferred upon some persons a benefit which the governing Scheme does not sanction, such aberration cannot metamorphose into a legally enforceable right in favour of another. One illegality cannot be made the foundation for commanding its repetition. Courts exist to arrest illegality, not to multiply it in the name of equality. The Apex Court has repeatedly repelled pleas founded upon such negative discrimination, holding that Article 14 cannot be invoked to perpetuate a wrong.

17. Thus, the controversy stands answered on several independent yet converging grounds: **first**, the appointments of the respondents as Second Division Assistants were strictly in consonance with the Scheme/Circular governing compassionate appointments, the post being admittedly a Group-C post; **second**, possession of a higher educational qualification did not confer upon them an indefeasible right to appointment as First Division Assistants; **third**, having accepted the appointments in 2018 and continued therein for nearly six years, the respondents approached the Tribunal only in 2024; **fourth**, the applications were entertained beyond the limitation prescribed under Section 21 of the Administrative Tribunals Act without sufficient cause for such extraordinary delay being demonstrated; **fifth**, isolated instances of erroneous transposition by the State cannot generate a right founded upon negative equality; and, **above all**, the entire spectrum of the controversy now stands covered by the pronouncement of the Apex Court in **JAYABAL** *supra*.

18. We are, therefore, unable to persuade ourselves to subscribe to the reasoning of the Tribunal. The contentions advanced by the State merit acceptance.

19. There is one final aspect which requires emphasis. **Compassionate appointment is a one-time measure born out of an exceptional circumstance; it cannot be converted into a recurring charter of benefits. Its *raison d'être* is to provide immediate succour to a family suddenly deprived of its breadwinner and thereby exposed to financial distress. Once that compassion has translated itself into public employment and the appointment has been accepted, the stream of compassion cannot be permitted to flow endlessly into claims for higher posts, better cadres or superior service benefits, merely because the appointee possesses qualifications for the said posts. Once the object of the Scheme stands fulfilled by appointment to the post contemplated thereunder, compassion cannot be invoked afresh to seek another and higher post.**

20. Before parting, it becomes necessary to sound a note of caution to the State. The State must tread carefully while dealing with requests for transposition from one post to another within Group-C merely on the strength of higher educational qualifications possessed by compassionate appointees. Picking and choosing individuals for such largesse, dehors the Scheme, would not merely disturb administrative discipline, but may also generate legitimate grievances of unequal treatment under Article 14 of the Constitution of India. Administrative aberrations, if repeated, have an uncanny tendency to masquerade as precedents and thereafter multiply into litigation.

21. The State would, therefore, do well to ensure uniform adherence to the governing Scheme and desist from repeating such departures. Compassion must operate within the boundaries drawn by law; otherwise, what begins as benevolence may end in arbitrariness and administrative chaos.

22. For the aforesaid reasons, the following:

ORDER

- (i)** Both the Writ Petitions are **allowed**.
- (ii)** The impugned orders dated 24-03-2026 passed by the Karnataka State Administrative Tribunal, Belagavi in Application Nos.10758 of 2024 and 10759 of 2024 stand quashed.

**Sd/-
(M.NAGAPRASANNA)
JUDGE**

**Sd/-
(HEMA KULKARNI)
JUDGE**

BKP