Canara Bank Vs Ajithkumar G.K

Court: Supreme Court Of India

Date of Decision: Feb. 11, 2025

Acts Referred: Constitution of India, 1950 â€" Article 14, 16, 141, 142, 226

Hon'ble Judges: Dipankar Datta, J; Prashant Kumar Mishra, J

Bench: Division Bench

Advocate: Rajesh Kumar Gautam, Anant Gautam, Deepanjal Choudhary, Dinesh Sharma, Likivi Jakhalu, Kushagra Nilesh Sahay, Nishe Rajen Shonker, Anu K. Joy, Alim Anvar, Santhosh K., Mohammed Sadique T.a

Final Decision: Allowed

Judgement

Dipankar Datta, J.

THE APPEAL

1. Canara Bank Ã¢â‚¬ËœappellantÃ¢â‚¬â„¢ is in appeal, by special leave, aggrieved by the judgment and order dated 4th November, 2019 Ã¢â‚¬Ëœimpugned

orderÃ¢â‚¬â„¢ of a Division Bench of the High Court of Kerala at Ernakulam Ã¢â‚¬ËœHigh CourtÃ¢â‚¬â„¢ dismissing an intra-court appeal that it had carried from

the judgment and order dated 9th June, 2016 of a Single Bench allowing the writ petition of Ajithkumar G.K. Ã¢â‚¬ËœrespondentÃ¢â‚¬â„¢.

RESUME OF FACTS

2. The facts leading to this appeal are not disputed. However, a brief resume is considered necessary to decide the appeal.

a. Father of the respondent passed away on 20th December, 2001 while in service of the appellant. He had 4 (four) months service left prior to

superannuation.

b. A scheme for appointment on compassionate ground, formulated by the appellant and contained in Circular No. 154/93 dated 8th May, 1993

Ã¢â‚¬Ëœscheme of 1993Ã¢â‚¬â„¢, was in force when such death occurred. Within a month of his fatherÃ¢â‚¬â„¢s death, the respondent applied on 15th January,

2002 seeking appointment on compassionate ground.

c. On 30th October, 2002, the respondentÃ¢â‚¬â„¢s plea was spurned by the Deputy General Manager of the appellant. The reason assigned were

twofold: (i) mother of the respondent is in receipt of family pension of Rs. 4367.92p and hence the financial position of the family does not warrant an

appointment on compassionate ground; and (ii) the respondent was overaged for the post of Ã¢â‚¬Å“Prob. PeonÃ¢â‚¬â€‹.

d. Incidentally, the respondent was in excess of 26 (twenty-six) years of age and in terms of the scheme of 1993, the maximum age limit for

appointment on a clerical post as well as in the sub-staff category was 26 (twenty-six) years. The scheme, however, provided for relaxation of the

upper age limit up to a maximum limit of five years. For members of the scheduled caste community, ex-servicemen and physically disabled

candidates, special relaxation was also provided. The respondent, though over-aged by a few months, was not considered by the appellant for such

relaxation.

e. Nevertheless, the respondent on 7th January, 2003, prayed for reconsideration of his prayer.

f. The Assistant General Manager of the appellant conveyed to the respondent on 20th January, 2003 that the financial position of the family of the

deceased employee had previously been examined in depth by the competent authority and there being no fresh ground for reconsideration, he

regretted inability to reconsider the prayer.

g. This was followed by a request dated 4th February, 2003 of the respondentÃ¢â‚¬â„¢s mother seeking reconsideration of the application submitted by the

respondent for protecting the poor family of the deceased employee who had served the appellant for more than 24 (twenty-four) years.

h. By an order dated 18th February, 2003, the Divisional Manager of the appellant once again expressed inability to reconsider the application of the

respondentÃ¢â‚¬â„¢s mother.

i. The respondent, finding no other option, invoked the writ jurisdiction of the High Court of Kerela by presenting a petition Ã¢â‚¬ËœW.P. (C) No.

38363/2003 (P)Ã¢â‚¬â„¢ under Article 226 of the Constitution.

j. During the pendency of the aforesaid writ petition, the appellant issued CircularÃ, No.Ã, 35/2005Ã, datedÃ, 14thÃ, February,Ã, 2005 Ã¢â‚¬Ëœscheme

of 2005Ã¢â‚¬â„¢Ã, introducingÃ, the Ã¢â‚¬Å“SCHEME FOR PAYMENT OF LUMPSUM EX-GRATIA AMOUNT IN LIEU OF EMPLOYMENT ON

COMPASSIONATE GROUNDSÃ¢â‚¬â€‹. The said scheme laid down provisions for coverage of family members of deceased employees who would be

entitled to lump sum ex-gratia payment. Most importantly, the circular dated 14th February, 2005 discontinued the policy of compassionate

appointment under the scheme of 1993.

k. As is the case with high courts all over the country having immense burden of work but number of Judges fewer than the sanctioned strength, and

for reasons beyond its control, it took the High Court more than a decade to decide the writ petition.

l. Vide a judgment and order dated 16th June, 2015, the writ petition stood allowed. The order passed by the Deputy General Manager dated 30th

October, 2002 refusing the respondent appointment on compassionate ground was held by the High Court to be not at all in accordance with the

scheme of 1993 launched by the appellant; further that, while reconsidering the prayer of the respondent and his mother, the appellant did not advert

properly to the laudable object of the scheme, especially its power to relax the age as provided under paragraph 5.1 thereof; also that, the orders

impugned were liable to be quashed. Consequently, the appellant was directed to reconsider the issues raised by the respondent taking into account the

scheme of 1993 as well as the principles laid down in the decisions of this Court in Canara Bank v M Mahesh Kumar (2015) 7 SCC 412 and State

Bank of India v Somveer Singh (2007) 4 SCC 778 as well as any other relevant decision that is pointed out by the respondent. Accordingly, upon

setting aside of the orders impugned, the appellant was directed to take a decision in the matter, as directed, within 45 (forty-five) days.

m. In furtherance of the aforesaid judgment and order, the Managing Director & Chief Executive Officer Ã¢â‚¬ËœMD & CEOÃ¢â‚¬â„¢ of the appellant re-

examined the claim of the respondent for compassionate appointment and once again declined favourable consideration of the claim. Relevant portions

from the order dated 8th September, 2015 passed by the MD & CEO read as follows:

Ã¢â‚¬Å“In the particular case of Shri Ajith Kumar G K, the following facts are undisputed:

Ã¢â‚¬Â¢ The ex-employee died with a remaining service of just over 4 months only and the dependent family was eligible for full terminal benefits (gross Rs.3.23 lacs and

net Rs.3.09 lacs after recovery of outstanding liabilities) and a family pension of Rs.4637.92 during 2002.

Ã¢â‚¬Â¢ He had then left behind his spouse, one unmarried son.

Ã¢â‚¬Â¢ The 3 daughters were married and settled.

Ã¢â‚¬Â¢ The son was aged 26 years and 8 months as on the date of application.

Ã¢â‚¬Â¢ The family of the deceased was drawing pension under the Canara Bank Pension Regulations.

The primary and the most basic issue to be examined therefore is whether the dependent of the deceased employee was facing any immediate financial difficulties or

penury on account of the sudden death of the employee.

In the present case, there were no minor dependent children or unmarried daughter in the family for whom future financial assistance was required. The 3 daughters of

the deceased employee were already married arid settled at the time of his demise. The other deponents are his spouse and his son Sri Ajith Kumar who was then

aged 26 years & 8 months. The family was residing in their own house. The last drawn net salary of Sri V C Gopalakrishna Pillai as on 2001 was Rs. 9,772/- and had he

survived for another 4 months he would have otherwise supported his family with the pension he would have received from the Bank (in normal course approximately

Rs. 6,398/- only). After the demise of the employee, his spouse Smt Omana Amma was sanctioned with a family pension of Rs.4637.92 then and which is presently

Rs.5825/- p.m. That apart Net terminal benefits to the extent of Rs.3.09 lacs (after closure of liability of Rs.13,942/-) as on 2002 which were available to dependents.

Taking all the factors into consideration, the family circumstances prevailing then I am of the considered view that there never existed any indigent circumstances of

the dependent family of Late Sri V C Gopalakrishna Pillai to say that the family was in such crisis which would not have been able to overcome without job being

offered under Compassionate Appointment.

For the reasons given above I come to the conclusion that the dependent family was not facing any acute financial distress or penury then which warrants the

exercise of the discretionary powers to extend the benefit of compassionate appointment in this case.

The question of relaxation of age arises only if the applicant is eligible for compassionate appointment. Since I have found, on the basis of the judgment of the

HonÃ¢â‚¬â„¢ble Supreme Court, based on which the Scheme has been framed that the applicant is not entitled for compassionate appointment. I am not considering the

question of relaxation of age as per the Scheme.

As such considering the matter in its entirety and also financial and familial conditions present then, the request, for Compassionate Appointment to the dependents

of Late V C Gopalakrishna Pillai (22841), Ex-clerk, Trikkovilvattom Branch is not considered favourably.

The application and representation of Sri Ajith Kumar G K for compassionate appointment is therefore rejected.Ã¢â‚¬â€‹

n. Denial of appointment, once again, left the respondent crestfallen. He, thus, approached the High Court by presenting a writ petition Ã¢â‚¬ËœW.P. (C)

No. 16592/2016Ã¢â‚¬â„¢ initiating the second round of litigation which has now reached this Court. For the reasons assigned in the judgment and order

dated 9th June, 2016, a learned judge of the High Court allowed the writ petition. The order impugned passed by the Managing Director was set aside.

A direction was issued to consider the respondent for appointment under the scheme of 1993 in the sub-staff cadre within 2 (two) months. It was also

directed that the appellant shall, in addition, pay a sum of Rs. 5 (five) lakh to the respondent as compensation for the reluctance shown in giving

compassionate appointment in time.

o. The appellant, feeling thoroughly dissatisfied, preferred an intra-court appeal Ã¢â‚¬ËœWA 1364/2016Ã¢â‚¬â„¢. A Division Bench of the High Court by the

impugned judgment and order dismissed the appeal with exemplary cost of Rs. 5 (five) lakh, in addition to the compensation directed to be paid by the

Single Judge in the judgment and order under challenge. The Division Bench expressing astonishment at the manner in which the appellant and its

officers had dealt with the claim of the respondent for compassionate appointment, directed appointment of the respondent in the sub-staff category in

any of the branches of the appellant within a month.

p. The reasons for the above directions of the Division Bench are captured in paragraphs 17 and 18, reading as follows:

Ã¢â‚¬Å“17. We do not think, either of the judgments placed before us by the learned Senior Counsel for the appellant-Bank commend us to cause interference to the

judgment of the learned Single Judge. As noticed by the learned Single Judge, M. Mahesh Kumar and Priya Jayarajan have settled the issue under the very same

Scheme of the identical Bank, which was the appellant therein. In M. Mahesh Kumar it was categorically held that grant of family pension and payment of terminal

benefits cannot be treated as a substitute for providing compassionate appointment. The HonÃ¢â‚¬â„¢ble Supreme Court having held so in 2015, in the case of the very

same appellant, as rightly found by the learned Single Judge, it was audacious on the part of the Bank to have passed an order in conflict with the decision of the

HonÃ¢â‚¬â„¢ble Supreme Court by Exhibit P8 dated 08.09.2015 when the judgment of the HonÃ¢â‚¬â„¢ble Supreme Court was already delivered on 15.05.2015.

18. Not only did the Bank pass an order in conflict with the decision in its own case, but filed an appeal from the order dismissing the writ petition. We notice that the

learned Single Judge had granted Rs.5 lakhs as exemplary costs for keeping the bereaved family of the deceased, wallowing in a penurious state, that too against the

very provisions of the Scheme. We also take note of the fact that the age relaxation directed to be considered in the earlier writ petition was brushed aside by the

Bank. That was the relevant and only consideration which should have been made on the totality of the circumstances, especially when the son had exceeded the

maximum age only by eight months. The receipt of family pension, which was found to be not a relevant consideration was also projected as a reason for denying the

appointment. We reiterate that a reading of the entire Scheme, especially the special provisions enabling appointment of one dependent even if another is employed,

persuades us to find the rejection of the instant claim for reason only of a family pension and retirement benefit of Rs.3.09 lakhs to be against the spirit and tenor of

the Scheme.Ã¢â‚¬â€‹

q. Canara Bank is, thus, in appeal against the said judgment and order.

CONTENTIONS OF THE PARTIES

3. According to learned counsel for the appellant:

a. Reliance placed by the Single Judge and the Division Bench on paragraph 19 of the ruling in Canara Bank (supra) was misplaced. First, because

the matter at hand differs significantly from the facts and circumstances of that particular case and secondly, the contents of paragraph 19 were

merely observations and do not constitute a binding precedent. The question of whether terminal benefits should be included in determining the

financial status of the deceased employee's family was neither raised nor resolved in the said decision. Even otherwise, the decision in Canara Bank

(supra) has been referred to a larger bench for further consideration.

b. Additionally, the decisions of the Single Judge and the Division Bench are inconsistent with legal principles established by this Court in a long line of

decisions.

c. In matters concerning appointment on compassionate grounds, it is essential to account for the terminal benefits as well as the family pension being

provided to the family of the deceased employee while assessing the family's overall financial condition.

d. Question of relaxation of age arises only if the applicant is otherwise eligible for compassionate appointment subject to he being found suitable for

any of the two categories of posts. In the present case, it was found that the respondent was not eligible for the appointment sought on account of

non-existence of indigent circumstances and hence, the question of age relaxation or testing his suitability, which are the further steps in the process,

did not arise to be undertaken. The High Court, therefore, applied wrong tests to allow the claim of the respondent.

4. Per contra, learned counsel for the respondent contended that:

a. The scheme of 1993 did not contain any provision to the effect that the financial condition of the applicantÃ¢â‚¬â„¢s family is to be considered before

giving employment on compassionate grounds. Paragraph 19 of the decision of this Court in Canara Bank (supra) was referred to in support of the

contention that it was not open to the appellant to raise the bogey of financial condition of the respondent after the death of his father did not reflect

indigent circumstances. Hence, rejection of the respondentÃ¢â‚¬â„¢s claim solely on the ground that the family is in receipt of pension and other terminal

benefits is in contravention of the decision in Canara Bank (supra), which is binding on the appellant.

b. The appellantÃ¢â‚¬â„¢s contention of the respondent being ineligible for employment on compassionate grounds on the ground of age-bar is untenable.

The appellant had not raised an objection to the overage of the respondent in the letters and counter affidavits except in the letter dated 30th October,

2002 rejecting the initial application of the respondent dated 15th January, 2002. Even otherwise, the issue of overage could not have been raised later

having regard to quashing of the decision contained in the letter dated 30th October, 2002 by the order of the High Court dated 16th June, 2015 having

regard to the doctrine of res judicata.

c. Moreover, the appellant had the power to relax the age and in the present case without considering such power of relaxation, the appellant rejected

the application on account of receipt of terminal benefits and family pension illegally and in an arbitrary manner.

d. That apart, there is nothing on record to suggest that the appellant made any bona fide assessment of the financial condition of the family of the

deceased. It could be inferred from the submissions of the appellant that they reached the conclusion that the financial condition of the family is sound,

only on the grounds that the family received the family pension and other terminal benefits without, however appreciating the ratio of the decision in

Canara Bank (supra) where receipt of terminal benefits was held to be of no consequence at all. Finally, it was submitted that substantial time has

elapsed since the death of the respondentÃ¢â‚¬â„¢s father and that the respondent having been made to unnecessarily wait for long, the present appeal

deserves dismissal with costs to the respondent.

5. Precedents on the point of compassionate appointment have been cited before us by both parties. Those, along with other precedents, do need due

consideration and we intend to do that as the discussion would progress.

ISSUE

6. The core issue arising for decision on this appeal is, whether the Division Bench of the High Court was unjustified in not allowing the intra-court

appeal of the appellant and in upholding the judgment of the Single Judge while directing the respondentÃ¢â‚¬â„¢s appointment at a point of time when he

was past 44 (forty-four) years of age.

7. There are also certain sub-issues which would fall for our attention. We propose to examine the same too, at a later stage, after noting the salient

features of the scheme of 1993 and the multiple judicial precedents governing the field of compassionate appointment.

THE SCHEME

8. The scheme of 1993 was introduced by the appellant in supersession of all earlier circulars, instructions and guidelines. The objective of the scheme

reads as follows:

Ã¢â‚¬Å“OBJECTIVES: The Scheme of employment on compassionate grounds (hereinafter called Ã¢â‚¬ËœSchemeÃ¢â‚¬â„¢) has been evolved to help dependents, of our employees

who die or become totally and permanently disabled while in harness, and to overcome the immediate financial difficulties on account of sudden stoppage of the main

source of income.

The employment under the Ã¢â‚¬ËœSchemeÃ¢â‚¬â„¢ will be considered only if there are indigent circumstances necessitating employment to one of the dependents and the

deceased employees service record is unblemished. Mere eligibility will not vest a right for claiming employment. The Bank reserves the right to reject the application

received under this Ã¢â‚¬ËœSchemeÃ¢â‚¬â„¢.Ã¢â‚¬â€‹

Other notable features of the scheme of 1993 are:

Ã¢â‚¬Å“3. PERIOD BY WHICH EMPLOYMENT SHOULD BE SOUGHT

3.1 Application for employment should be sought within 2 and Ã‚Â½ years from the date of death of the employee.

3.2 In case the dependent of deceased employee to be offered appointment is a minor, the Bank may keep the offer of appointment open till the minor attains the age

of majority provided a request is made to the Bank by the family of the deceased employee and the same may be considered subject to rules prevailing at the time of

consideration.

5. AGE NORMS:

a. IN CASE OF WIDOW/WIDOWER

Minimum Ã¢â‚¬" 18 years.

Maximum Ã¢â‚¬" No specific upper age limit but shall be below the age of superannuation.

b. IN CASE OF OTHERS

Minimum Ã¢â‚¬" 18 years.

Maximum Ã¢â‚¬" 26 years for both Clerical post and Sub-staff category.

Upper age limit is relaxable as per norms in case of SC/ST/EXSM/PH candidates as follows:

SC/ST Ã¢â‚¬" 5 years.

EXSM Ã¢â‚¬" 3 yearsÃ¢â‚¬â„¢ service + service in Armed Forces.

PH Ã¢â‚¬" 10 years.

5.1 Where no dependent of the deceased employee within the prescribed age limit is available for employment, the Bank may at its discretion relax the upper age limit

upto a maximum limit of 5 years. In case of dependents belonging to SC/ST category, the existing concession for SC/ST for the upper age limit will continue to apply

but in any case, it shall not exceed ten years i.e. 5 years for being SC/ST candidate and another 5 years under discretionary powers, provided there are no other

dependents available within the prescribed age limit.Ã¢â‚¬â€‹

9. The procedure for making applications is provided in paragraph 11 requiring applications to be made in the formats furnished in Annexures Ã¢â‚¬Ëœ I' to

Ã¢â‚¬Ëœ IIIÃ¢â‚¬â„¢, whereas paragraph Ã¢â‚¬Ëœ12Ã¢â‚¬â„¢ enjoined that the offer of employment would be restricted only to one person.

JUDICIAL PRECEDENTS ON THE ISSUE OF COMPASSIONATE APPOINTMENT

10. The policy to appoint a dependant family member of an employee who has died-in-harness or has been medically rendered unfit to perform further

job, thereby leaving the family in utter penury, is not of too distant an origin. Going by law reports, the policy seems to have originated during the

seventies of the last century and gained momentum in the following decades with this Court laying down guidelines from time to time for grant of

compassionate appointment. The rationale for such appointment has been explained in Haryana State Electricity Board v. Hakim Singh (1997) 8 SCC

85 in the following words:

Ã, Ã¢â‚¬Å“8. The rule of appointments to public service is that they should be on merits and through open invitation. It is the normal route through which one can get

into a public employment. However, as every rule can have exceptions, there are a few exceptions to the said rule also which have been evolved to meet certain

contingencies. As per one such exception relief is provided to the bereaved family of a deceased employee by accommodating one of his dependants in a vacancy.

The object is to give succour to the family which has been suddenly plunged into penury due to the untimely death of its sole breadwinner. This Court has observed

time and again that the object of providing such ameliorating relief should not be taken as opening an alternative mode of recruitment to public employment.Ã¢â‚¬â€‹

11. Decisions of this Court on the contours of appointment on compassionate ground are legion and it would be apt for us to consider certain well-

settled principles, which have crystallized through precedents into a rule of law. They are (not in sequential but contextual order):

a) Appointment on compassionate ground, which is offered on humanitarian grounds, is an exception to the rule of equality in the matter of public

employment [see General Manager, State Bank of India v Anju Jain (2008) 8 SCC 475].

b) Compassionate appointment cannot be made in the absence of rules or instructions [see Haryana State Electricity Board v. Krishna Devi (2002)

10 SCC 246].

c) Compassionate appointment is ordinarily offered in two contingencies carved out as exceptions to the general rule, viz. to meet the sudden crisis

occurring in a family either on account of death or of medical invalidation of the breadwinner while in service [see V. Sivamurthy v. Union of India

(2008) 13 SCC 730].

d) The whole object of granting compassionate employment by an employer being intended to enable the family members of a deceased or an

incapacitated employee to tide over the sudden financial crisis, appointments on compassionate ground should be made immediately to redeem the

family in distress [see Sushma Gosain v. Union of India (1989) 4 SCC 468].

e) Since rules relating to compassionate appointment permit a side-door entry, the same have to be given strict interpretation [see Uttaranchal Jal

Sansthan v. Laxmi Devi (2009) 11 SCC 453].

f) Compassionate appointment is a concession and not a right and the criteria laid down in the Rules must be satisfied by all aspirants [see SAIL v.

Madhusudan Das (2008) 15 SCC 560].

g) None can claim compassionate appointment by way of inheritance [see State of Chattisgarh v. Dhirjo Kumar Sengar(2009) 13 SCC 600].

h) Appointment based solely on descent is inimical to our constitutional scheme, and being an exception, the scheme has to be strictly construed and

confined only to the purpose it seeks to achieve [see Bhawani Prasad Sonkar v. Union of India(2011) 4 SCC 201].

i) None can claim compassionate appointment, on the occurrence of death/medical incapacitation of the concerned employee (the sole bread earner of

the family), as if it were a vested right, and any appointment without considering the financial condition of the family of the deceased is legally

impermissible [see Union of India v. Amrita Sinha (2021) 20 SCC 695].

j) An application for compassionate appointment has to be made immediately upon death/incapacitation and in any case within a reasonable period

thereof or else a presumption could be drawn that the family of the deceased/incapacitated employee is not in immediate need of financial assistance.

Such appointment not being a vested right, the right to apply cannot be exercised at any time in future and it cannot be offered whatever the lapse of

time and after the crisis is over [see Eastern Coalfields Ltd. v. Anil Badyakar (2009) 13 SCC 112].

k) The object of compassionate employment is not to give a member of a family of the deceased employee a post much less a post for post held by

the deceased. Offering compassionate employment as a matter of course irrespective of the financial condition of the family of the deceased and

making compassionate appointments in posts above Class III and IV is legally impermissible [seeU mesh Kumar Nagpal v. State of Haryana (1994)

4 SCC 138].

l) Indigence of the dependents of the deceased employee is the first precondition to bring the case under the scheme of compassionate appointment. If

the element of indigence and the need to provide immediate assistance for relief from financial destitution is taken away from compassionate

appointment, it would turn out to be a reservation in favour of the dependents of the employee who died while in service which would directly be in

conflict with the ideal of equality guaranteed under Articles 14 and 16 of the Constitution [see Union of India v. B. Kishore (2011) 13 SCC 131].

m) The idea of compassionate appointment is not to provide for endless compassion [see I.G. (Karmik) v. Prahalad Mani Tripathi (2007) 6 SCC 162].

n) Satisfaction that the family members have been facing financial distress and that an appointment on compassionate ground may assist them to tide

over such distress is not enough; the dependent must fulfil the eligibility criteria for such appointment [see State of Gujarat v. Arvindkumar T.

Tiwari (2012) 9 SCC 545].

o) There cannot be reservation of a vacancy till such time as the applicant becomes a major after a number of years, unless there are some specific

provisions [see Sanjay Kumar v. State of Bihar (2000) 7 SCC 192].

p) Grant of family pension or payment of terminal benefits cannot be treated as substitute for providing employment assistance. Also, it is only in rare

cases and that too if provided by the scheme for compassionate appointment and not otherwise, that a dependent who was a minor on the date of

death/incapacitation, can be considered for appointment upon attaining majority [see Canara Bank (supra)].

q) An appointment on compassionate ground made many years after the death/incapacitation of the employee or without due consideration of the

financial resources available to the dependent of the deceased/incapacitated employee would be directly in conflict with Articles 14 and 16 of the

Constitution [see National Institute of Technology v. Niraj Kumar Singh (2007) 2 SCC 481].

r) Dependents if gainfully employed cannot be considered [see Haryana Public Service Commission v. Harinder Singh (1998) 5 SCC 452].

s) The retiral benefits received by the heirs of the deceased employee are to be taken into consideration to determine if the family of the deceased is

left in penury. The court cannot dilute the criterion of penury to one of Ã¢â‚¬Å“not very well-to-doÃ¢â‚¬. [see General Manager (D and PB) v. Kunti

Tiwary(2004) 7 SCC 271].

t) Financial condition of the family of the deceased employee, allegedly in distress or penury, has to be evaluated or else the object of the scheme

would stand defeated inasmuch as in such an eventuality, any and every dependent of an employee dying-in-harness would claim employment as if

public employment is heritable [see Union of India v. Shashank Goswami (2012) 11 SCC 307, Union Bank of India v. M. T. Latheesh (2006) 7

SCC 350, National Hydroelectric Power Corporation v. Nank Chand (2004) 12 SCC 487 and Punjab National Bank v. Ashwini Kumar

Taneja(2004) 7 SCC 265].

u) The terminal benefits, investments, monthly family income including the family pension and income of family from other sources, viz. agricultural

land were rightly taken into consideration by the authority to decide whether the family is living in penury. [see Somvir Singh (supra)].

v) The benefits received by widow of deceased employee under Family Benefit Scheme assuring monthly payment cannot stand in her way for

compassionate appointment. Family Benefit Scheme cannot be equated with benefits of compassionate appointment. [see Balbir Kaur v. SAIL (2000)

6 SCC 493]

w) The fixation of an income slab is, in fact, a measure which dilutes the element of arbitrariness. While, undoubtedly, the facts of each individual case

have to be borne in mind in taking a decision, the fixation of an income slab subserves the purpose of bringing objectivity and uniformity in the process

of decision making. [see State of H.P. v. Shashi Kumar(2019) 3 SCC 653].

x) Courts cannot confer benediction impelled by sympathetic consideration [see Life Insurance Corporation of India v. Asha Ramchandra

Ambekar (1994) 2 SCC 718].

y) Courts cannot allow compassionate appointment dehors the statutory regulations/instructions. Hardship of the candidate does not entitle him to

appointment dehors such regulations/instructions [see SBI v. Jaspal Kaur (2007) 9 SCC 571].

z) An employer cannot be compelled to make an appointment on compassionate ground contrary to its policy [see Kendriya Vidyalaya Sangathan v.

Dharmendra Sharma (2007) 8 SCC 148].

It would be of some relevance to mention here that all the decisions referred to above are by coordinate benches of two Judges.

A GREY AREA

12. Before moving on to decide the issues emerging for our decision, we may briefly refer to an area which, till a few years back, was grey and

continues to be so. It is on the question as to which rule/policy/scheme would be applicable for consideration of an application for compassionate

appointment, i.e., the rule/policy/scheme prevailing on the date of death, or the date of consideration of the application. Divergent views have been

taken by coordinate benches of this Court and some such decisions are noted hereunder:

a. In Abhishek Kumar v. State of Haryana (2006) 12 SCC 44, it was held that since the appellant had sought for appointment on compassionate

grounds at a point of time when the 2003 Rules were not in existence, therefore, his case was required to be considered in terms of the Rules which

were in existence in the year 2001.

b. In Canara Bank (supra) too, it was held that claim for compassionate appointment under a scheme of a particular year cannot be decided based on

a subsequent scheme that came into force much after the claim.

c. However, the view expressed in SBI v. Raj Kumar (2010) 11 SCC 661Ã, and MGB Gramin Bank v. Chakrawarti Singh (2014) 13 SCC 583 is

that there is no vested right to have the matter considered under the former scheme and the governing scheme would be one which was in force when

the applications came up for consideration.

13. Raj Kumar (supra) and Chakrawarti Singh (supra) did not have the occasion to notice Abhishek Kumar (supra). However, Canara Bank

(supra) did notice Raj Kumar (supra) and Chakrawarti Singh (supra) but struck discordant notes therewith. The decision in Jaspal Kaur (supra)

was relied on by the coordinate bench in Canara Bank (supra) to hold that:

Ã¢â‚¬Å“17. Ã¢â‚¬Â¦ the cause of action to be considered for compassionate appointment arose when Circular No. 154 of 1993 dated 8-5-1993 was in force. Thus, as per the

judgment referred in Jaspal Kaur case, the claim cannot be decided as per 2005 Scheme providing for ex gratia payment. The Circular dated 14-2-2005 being an

administrative or executive order cannot have retrospective effect so as to take away the right accrued to the respondent as per Circular of 1993 Ã¢â‚¬Â¦Ã¢â‚¬â€‹.

14. Noticing the divergent views, as above, another coordinate bench referred the matter to a larger bench in State Bank of India v. Sheo Shankar

Tewari (2019) 5 SCC 600.

15. Close on the heels of the reference made in Sheo Shankar Tewari (supra), a three-Judge Bench of this Court held in N.C. Santhosh v. State of

Karnataka (2020) 7 SCC 617 that for consideration of a claim for compassionate appointment, the norms prevailing on the date the application is

considered should be the basis for consideration. Paragraph 19 of the decision is the relevant paragraph where the dictum is to be found.

16. N.C. Santhosh (supra) does seem to have impliedly overruled Canara Bank (supra) by holding that the norms, prevailing on the date of

consideration of the application should be the basis for consideration and not the norms as applicable on the date of death.

17. One would have thought that the issue attained finality with the decision in N.C. Santhosh (supra), being the decision of a larger bench of this

Court. However, the controversy seems to have re-emerged with subsequent decisions of this Court being rendered which are in line with Abhishek

Kumar (supra) and Canara Bank (supra) and contrary to Raj Kumar (supra), Chakrawarti Singh (supra) and N.C. Santhosh (supra).

18. Within 6 (six) months of the ruling in N.C. Santhosh (supra), came the decision of another bench of three Judges in State of Madhya Pradesh v.

Amit Shrivas (2020) 10 SCC 496 where it was held that:

Ã¢â‚¬Å“16. It is trite to say that there cannot be any inherent right to compassionate appointment but rather, it is a right based on certain criteria, especially to provide

succour to a needy family. This has to be in terms of the applicable policy as existing on the date of demise, unless a subsequent policy is made applicable

retrospectively. Ã¢â‚¬Â¦Ã¢â‚¬â€‹

19. We place on record that the decision in Amit Shrivas (supra) refers to an earlier decision in State of Gujarat v. Arvind T. Tiwari (2012) 9 SCC

545 in paragraph 16, extracted above, as if such decision lays down the law that a subsequent policy could be made applicable retrospectively. While

we have been unable to trace any such law in Arvind T. Tiwari (supra), this is what we find in paragraph 18 of the said decision:

Ã¢â‚¬Å“18. Thus, the question framed by this Court with respect to whether the application for compassionate employment is to be considered as per existing rules, or

under the rules as existing on the date of death of the employee, is not required to be considered.Ã¢â‚¬â€‹

It is indeed debatable whether a policy for compassionate appointment, which is in the nature of an executive order, can have retrospective

application.

20. Be that as it may, soon after the decision in Amit Shrivas (supra), there have been two decisions of coordinate benches of two-Judges in Indian

Bank v. Promila (2020) 2 SCC 729 and State of Madhya Pradesh v. Ashish Awasthi (2022) 2 SCC 157. The latter, upon considering the decisions in

Amit Shrivas (supra) and Promila (supra), expressed the view in paragraph 5 thus:

Ã¢â‚¬Å“5. As per the settled proposition of law laid down by this Court for appointment on compassionate ground, the policy prevalent at the time of death of the

deceased employee only is required to be considered and not the subsequent policy.Ã¢â‚¬â€‹

21. The decisions in N.C. Santhosh (supra) and Amit Shrivas (supra), rendered by three-Judge benches, are clearly at variance on the point as to

which of the policies would be applicable to decide an application for compassionate appointment - the policy prevailing as on the date of death of the

deceased employee or the one prevailing on the date of consideration of the application for compassionate appointment.

22. The reference made by Sheo Shankar Tewari (supra) is yet to be decided by the larger bench; hence, we have considered it appropriate to refer

to the decisions rendered subsequently so that an informed and authoritative decision is made available on this tricky issue or, if at all the necessity

arises, to make an appropriate reference to a still larger bench having regard to the conflicting views expressed by coordinate benches of three-Judges

and a host of divergent views of benches of two-Judges.

23. Since Canara Bank (supra) has been referred to a larger bench and the larger bench is yet to give its decision, learned counsel for the appellant

was heard to submit that we ought to await such decision. However, we can brook no further delay having regard to the lapse of time since the

judgment was reserved on this appeal, because the decision of the larger bench is not in sight and most importantly, the respondent is waiting for more

than two decades not knowing what destiny has in store for him.

ANALYSIS AND DECISION

24. We have noticed the core issue arising for decision as well as the guiding legal principles for appointment on compassionate ground hereinabove.

As observed earlier, decision on the core issue would also require us to answer certain sub-issues. We propose to answer them too in the process.

25. The first sub-issue is in relation to the lapse of time since the respondentÃ¢â‚¬â„¢s father passed away. It has been in excess of two decades. It does

not require anyone to put on a magnifying glass here to assess the time that has been taken for the application of the respondent for compassionate

appointment to be finally decided. The parties have reached the third tier in the second round. One of the foremost factors for appointment on

compassionate ground is that the same should be offered at the earliest. Unless appointment is made soon after the need to mitigate hardship arises,

tiding over the immediate financial crisis owing to (i) sudden premature and untimely death of the deceased employee or (ii) medical incapacitation

resulting in the employeeÃ¢â‚¬â„¢s unfitness to continue in service, - for which benevolence is shown by offering an appointment - may not exist and

thereby the very object of such appointment could stand frustrated.

26. More often than not, spurned claims for compassionate appointment reach the high courts or even this Court after consuming substantial time. The

ordinary rule of litigation is that right to relief should be decided by reference to the date on which the suitor entered the portals of the court. The relief

that the suitor is entitled in law could still be denied in equity on account of subsequent and intervening events, i.e., events between the date of

commencement of the litigation and the date of the decision; however, law is well-settled that such relief may not be denied solely on account of time

lost in prosecuting proceedings in judicial or quasi-judicial forum for no fault of the suitor [see : Beg Raj Singh v. State of U.P. (2003) 1 SCC 726]. It

would, therefore, not be prudent or wise to reject a claim only because of the time taken by the court(s) to decide the issue before it.

27. Lapse of time could, however, be a major factor for denying compassionate appointment where the claim is lodged belatedly. A presumption is

legitimately drawn in cases of claims lodged belatedly that the family of the deceased/incapacitated employee is not in immediate need of financial

assistance. However, what would be a reasonable time would largely depend on the policy/scheme for compassionate appointment under

consideration. If any time limit has been prescribed for making an application and the claimant applies within such period, lapse of time cannot be

assigned as a ground for rejection.

28. The death of the respondentÃ¢â‚¬â„¢s father, in this case, occurred in December 2001. Now, we are in 2025. The respondent cannot be blamed for

the delay, since he was diligently pursuing his claim before the appellant and thereafter before the High Court. Thus, irrespective of how old the

respondent is presently, his age cannot be determinative for foreclosing his claim and bar a consideration of the same on merits.

29. The second sub-issue pertains to the real objective sought to be achieved by offering compassionate appointment. We have noticed the objectives

of the scheme of 1993 and construe such objectives as salutary for deciding any claim for compassionate appointment. The underlying idea behind

compassionate appointment in death-in-harness cases appears to be that the premature and unexpected passing away of the employee, who was the

only bread earner for the family, leaves the family members in such penurious condition that but for an appointment on compassionate ground, they

may not survive. There cannot be a straitjacket formula applicable uniformly to all cases of employees dying-in-harness which would warrant

appointment on compassionate grounds. Each case has its own peculiar features and is required to be dealt with bearing in mind the financial condition

of the family. It is only in Ã¢â‚¬Å“hand-to-mouthÃ¢â‚¬ cases that a claim for compassionate appointment ought to be considered and granted, if at all other

conditions are satisfied. Such Ã¢â‚¬Å“hand-to-mouthÃ¢â‚¬ cases would include cases where the family of the deceased is Ã¢â‚¬Ëœbelow poverty lineÃ¢â‚¬â„¢ and

struggling to pay basic expenses such as food, rent, utilities, etc., arising out of lack of any steady source of sustenance. This has to be distinguished

from a mere fall in standard of life arising out of the death of the bread earner.

30. The observation in Kunti Tiwary (supra) noted above seems to assume significance and we draw inspiration therefrom in making the observation

that no appointment on compassionate ground ought to be made as if it is a matter of course or right, being blissfully oblivious of the laudable object of

any policy/scheme in this behalf.

31. Thus, examination of the financial condition to ascertain whether the respondent and his mother were left in utter financial distress because of the

death of the bread earner is not something that can be loosely brushed aside.

32. This takes us to the third sub-issue tasking us to consider whether there has been a proper and reasonable assessment of the financial condition of

the family consequent upon death of the respondentÃ¢â‚¬â„¢s father. The order of the MD & CEO has been extracted above, verbatim. What transpires

from a bare reading of such order is that the deceased left behind him his widow, the respondent and three daughters as his surviving heirs. All the

daughters were married and settled. Only his spouse and son could count as dependants. The daughters were not shown to be dependent on the

deceased while he was alive and in service. The respondent and his mother were residing in their own house. That apart, the deceased was 4 (four)

months away from retirement on superannuation. It has been indicated in such order what the last drawn net salary of the deceased was and had he

survived even after superannuation, what quantum of money would he have received as monthly pension. Also, the amount of monthly family pension

being paid to the respondentÃ¢â‚¬â„¢s mother is indicated. Although on behalf of the respondent a contention has been raised that there has been no

proper assessment of his financial condition, rather strangely, the figures referred to by the MD & CEO have not been disputed at all. We are, thus,

left with no option but to proceed on the basis that the same are correct. If, indeed, the respondentÃ¢â‚¬â„¢s father would have received a pension amount

of Rs. 6398/- and burdened to feed himself as well as his two dependants, viz. his spouse and son, the amount of family pension initially sanctioned,

i.e., Rs. 4637.92 could not have, by any stretch of imagination, be seen as insufficient or inadequate for feeding two mouths. It is also not in dispute

that the net terminal benefits in a sum of Rs. 3.09 lakh paid to the respondent/his mother would have been the same amount which the deceased

would have received as terminal benefits after superannuation, had he been alive. Thus, it is not a case where the death of the respondentÃ¢â‚¬â„¢s father

brought about such dire consequence and/or disastrous outcome that the respondent and his mother would have to cope with miserable effects which,

as the respondent urged, could be remedied only by offering an appointment on compassionate ground. We regret our inability to be ad idem with

learned counsel for the respondent.

33. The next sub-issue, which cannot be overlooked, is this. The scheme of 1993 envisages assessment of the suitability of the claimant for

compassionate appointment. As has been laid down in several decisions of this Court, noted above, the clauses forming part of the policy/scheme for

compassionate appointment have to be followed to the letter. Without the respondent having been subjected to a suitability test, the Division Bench

plainly fell in error in directing the respondentÃ¢â‚¬â„¢s appointment in the category of clerk relying on the decision in Canara Bank (supra). It is of some

significance that even Canara Bank (supra) did not order appointment but required reconsideration of the claim.

34. Whether relaxation in age ought to have been granted is the next sub-issue. A contention raised on behalf of the respondent, and which succeeded,

was to the effect that since he was overaged only by eight months on the date of death of his father, he should have been granted relaxation of age

for which power was conferred by the scheme of 1993. We are conscious that there is substance in the contention on behalf of the respondent that

this issue is no longer open to be decided here. The decision initially taken that the respondent was over-aged had been set aside in the first round of

litigation and, therefore, the principle of res judicata is indeed attracted.

35. However, the point having been argued at some length, our views on interpretation of the scheme of 1993 could be of some worth for courts

deciding similar such issue in future. We are in agreement with learned counsel for the appellant that the question of relaxation would arise only when

the claimant satisfies the other requirements of the scheme of 1993 for compassionate appointment. What seems to be logical is that no dependant,

who otherwise satisfies all criteria for compassionate appointment including suitability, should be told off at the gate solely on the ground of age-bar. If

the age of the claimant is found to be within the relaxable limit, discretion is available to be exercised in an appropriate case. Relaxation of age is a

step to be taken in the final stages of the entire process and it would arise for consideration provided all other conditions for appointment are satisfied.

If in a given case, such as this, that the family of the deceased is not found to be indigent, the first threshold is not crossed and thereby, the process

does not progress any further. In such a case, it would be in idle formality to consider whether relaxation of age should be granted.

36. Finally, it is noteworthy that although the Single Bench directed further consideration of the claim of the respondent upon quashing of the impugned

order of rejection passed by the MD & CEO, the Division Bench went a step further and directed appointment. Power of an appellate court is

circumscribed by laws. Unless a particular case in appeal is so exceptional in nature that the appellate court considers it imperative to exercise power

akin to power conferred on appellate courts by Order XLI Rule 33, Civil Procedure Code, such power should normally not be exercised. We have not

found reference to the said provision as the source from which the Division Bench drew power to order appointment to be offered without the

respondent being subjected to the suitability test. Obviously, therefore, the appellants could not have been worse off for filing an appeal.

37. Turning focus to the core issue, we have found that the High Court - both the Single Bench and the Division Bench - heavily relied on the decision

in Canara Bank (supra) in reaching its respective conclusions. We do appreciate the predicament of the High Court. Perhaps, the said Benches were

left with no other option but to feel bound by what this Court had observed and decided therein; more so, because the decision dealt with the scheme

of 1993 framed by the appellant itself, which is under consideration here.

38. The high courts, we reiterate, must bear in mind the decision of this Court in Director of Settlements, A.P. v. M.R. Apparao (2002) 4 SCC 638

where certain pertinent observations were made in regard to the binding effect of a decision of this Court. The relevant passage reads:

Ã¢â‚¬Å“7. Ã¢â‚¬Â¦ The law which will be binding under Article 141 would, therefore, extend to all observations of points raised and decided by the Court in a given case. So far

as constitutional matters are concerned, it is a practice of the Court not to make any pronouncement on points not directly raised for its decision. The decision in a

judgment of the Supreme Court cannot be assailed on the ground that certain aspects were not considered or the relevant provisions were not brought to the notice

of the Court (see Ã¢â‚¬Â¦). When the Supreme Court decides a principle it would be the duty of the High Court or a subordinate court to follow the decision of the

Supreme Court. A judgment of the High Court which refuses to follow the decision and directions of the Supreme Court or seeks to revive a decision of the High

Court which had been set aside by the Supreme Court is a nullity. Ã¢â‚¬Â¦Ã¢â‚¬â€‹

(emphasis supplied)

39. The ratio of the decision in Canara Bank (supra) in view of Article 141 of the Constitution was binding on the High Court, no matter whether in

such decision this Court considered all the provisions of the scheme of 1993 or not. Even an obiter dictum of this Court could be binding on the high

courts. However, being a coordinate bench, we neither feel bound by any obiter dictum nor any principle laid down in an earlier decision which did not

have the occasion to consider the issue of financial condition from all relevant perspectives.

40. Leaving aside the fact that Canara Bank (supra) has been referred to a larger bench, we have independently looked into the issue having regard

to all relevant factors.

41. Paragraph 1 of the decision in Canara Bank (supra) records the common question of law arising in the civil appeals. Briefly put, the question was

whether the family members of the employee dying-in-harness during the subsistence of the scheme of 1993 were entitled to claim compassionate

appointment notwithstanding that their financial condition was good and that the scheme of 1993 had been replaced with the scheme of 2005.

42. While reasoning that the stand of the appellant was unjustified, the coordinate bench had the occasion to consider several decisions of this Court

and ultimately held as follows:

Ã¢â‚¬Å“19. Insofar as the contention of the appellant Bank that since the respondentÃ¢â‚¬â„¢s family is getting family pension and also obtained the terminal benefits, in our

view, is of no consequence in considering the application for compassionate appointment. Clause 3.2 of the 1993 Scheme says that in case the dependant of the

deceased employee to be offered appointment is a minor, the Bank may keep the offer of appointment open till the minor attains the age of majority. This would

indicate that granting of terminal benefits is of no consequence because even if terminal benefit is given, if the applicant is a minor, the Bank would keep the

appointment open till the minor attains majority.

Ã¢â‚¬Â¦

22. Considering the scope of the scheme Ã¢â‚¬Ëœ Dying in Harness Scheme 1993Ã¢â‚¬â„¢ then in force and the facts and circumstances of the case, the High Court rightly

directed the appellant Bank to reconsider the claim of the respondent for compassionate appointment in accordance with law and as per the Scheme (1993) then in

existence. We do not find any reason warranting interference.Ã¢â‚¬â€‹

43. In our considered view, the objectives of the scheme of 1993 and the requirements of disclosure relating to financial condition and the details of

liabilities of the deceased employee in the prescribed formats (Annexures I and II, respectively) would leave none in doubt about the intention of the

policy makers. Overcoming the immediate financial difficulties on account of sudden stoppage of the main source of income and existence of indigent

circumstances necessitating employment to one of the dependants being at the heart of the scheme of 1993, it is difficult, if not impossible, to accept it

as a valid proposition of law that grant of terminal benefits cannot be of any consequence since paragraph 3.2 of the scheme of 1993 permits the offer

of appointment to be kept open till such time the surviving minor dependant, who is to be offered appointment, attains majority. To our mind, what

paragraph 3.2 postulates is that, despite there being indigent circumstances necessitating appointment, the object of compassionate appointment

thereunder should not be frustrated for mere absence of an eligible dependant family member. The offer would be kept open for such minor to attain

majority, whereafter he would be offered appointment subject to suitability, and once he accepts the appointment, he would be under an obligation to

look after the other indigent family members. Although paragraph 3.2 may not be wholly in sync with the objective of overcoming immediate financial

difficulties, it has to be seen as a benevolent clause extending the benefit of compassionate appointment even beyond reasonable limits, obviously to

cover exceptional cases, for ensuring the right of the family members of the deceased employee to live with human dignity. The idea for incorporation

of this clause in the scheme of 1993 cannot be confused with grant/release of terminal benefits. Both operate in different arena and, therefore, we

respectfully disagree with the reasoning in paragraph 19 of Canara Bank (supra).

44. As pertinently held in B. Kishore (supra), indigence of the dependants of the deceased employee is the fundamental condition to be satisfied under

any scheme for appointment on compassionate ground and that if such indigence is not proved, grant of relief in furtherance of protective

discrimination would result in a sort of reservation for the dependents of the employee dying-in-harness, thereby directly conflicting with the ideal of

equality guaranteed under Articles 14 and 16 of the Constitution. Also, judicial decisions abound that in deciding a claim for appointment on

compassionate grounds, the financial situation of the deceased employee's family must be assessed. In a situation otherwise, the purpose of the

scheme may be undermined; without this evaluation, any dependent of an employee who dies while in service might claim a right to employment as if

it is heritable.

45. The ratio decidendi of all these decisions have to be read in harmony to achieve the noble goal of giving succour to the dependants of the

employee dying-in-harness, who are genuinely in need, and not with the aim of giving them a post for another post. One has to remember in this

connection the caution sounded in Umesh Kumar Nagpal (supra) that as against the destitute family of the deceased there are millions of other

families which are equally, if not more, destitute.

46. Premised on the aforesaid reasoning of ours, we conclude that the order of the MD & CEO refusing to grant the prayer of the respondent for

compassionate appointment was unexceptionable and, therefore, not liable to any interference in the exercise of writ jurisdiction.

47. At the same time, we cannot be oblivious of Canara Bank (supra) having been rendered by a coordinate bench. Having disagreed with Canara

Bank (supra), judicial propriety demands that we follow the appropriate course, i.e., to refer the matter to a larger bench. We are also not oblivious of

the legal position that so long the decision that is doubted is overruled, it continues to remain binding. A reference to a larger bench, as made by the

coordinate bench in Sheo Shankar Tewari (supra), if made by us would only add to the agony and pain of the respondent considering that one cannot

foresee an imminent resolution of the controversy, in light of the admitted fact that the reference made by Sheo Shankar Tewari (supra) in 2019 is still

unanswered.

CONCLUSION

48. Having regard to the foregoing discussion of the predicament faced by the High Court, we cannot hold the impugned order to be entirely

unjustified. To the extent it has relied on Canara Bank (supra), we cannot fault the Division Bench or, for that matter, the Single Bench. The Division

Bench, feeling bound by Canara Bank (supra), did not have the occasion to enter into a proper examination of the order of the MD & CEO. It was

of the clear impression that the said order was in the teeth of what was held in paragraph 19 by this Court in Canara Bank (supra). However, at the

same time, we are of the firm opinion that notwithstanding Canara Bank (supra), the Division Bench ought not to have overlooked the criterion

relating to suitability while directing appointment of the respondent straightaway. To this extent, learned counsel for the appellant is right that the

question of suitability was left untouched by Canara Bank (supra) and the appellant ought not to have been made to suffer an order on its appeal

having more adverse consequences than the order on the writ petition.

49. In the fitness of things, we have decided to invoke our powers under Article 142 of the Constitution. Another coordinate bench seized of this

appeal appears to have observed on 21st May, 2024 that it would consider making a direction for payment of a lumpsum amount to the respondent

towards full and final settlement and, accordingly, time was granted to the parties to obtain instructions. Though no agreement was reached and

whether the respondent is covered under the scheme of 2005 for lumpsum ex-gratia payment has not been examined by us as well as by the High

Court, but bearing in mind the approach of the coordinate bench coupled with the circumstance of hope being generated in the mind of the respondent

for appointment based on his success before the High Court, we are satisfied that interest of justice would be sufficiently served if the appellant is

directed to make a lumpsum payment of Rs.2.5 lakh to the respondent within a period of 2 (two) months from date and the proceedings be closed. It is

ordered, accordingly. We hasten to add that this would be in addition to Rs.50,000/- paid to the respondent in terms of an earlier order of another

coordinate bench while issuing notice.

50. In the final analysis, the impugned judgment and order of the Division Bench as well as that of the Single Bench stands set aside.

51. The civil appeal is allowed on the aforesaid terms. No costs.