

**The Director of Town Panchayat & Ors.**

v.

**M. Jayabal & Anr. Etc.**

(Civil Appeal No(s). 12640-12643 of 2025)

12 December 2025

**[Rajesh Bindal\* and Manmohan, JJ.]**

**Issue for Consideration**

Issue arose whether the compassionate appointment of a family member on account of death of an employee in service, is as a matter of right; whether the dependent family member of a deceased employee, after being appointed on a post on compassionate basis, can later on seek appointment on a post higher; and 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, on the ground of eligibility.

**Headnotes<sup>†</sup>**

**Service law – Compassionate appointment – Appointment to higher post – Respondents on account of death of their fathers-working as sweepers, initially granted appointment on compassionate basis as sweepers, for which application was made – After few years they filed writ petitions claiming appointment to a higher post-Junior Assistant on the ground that they were qualified for the same at the time of the initial appointment – Both the Single Judge and the Division Bench of the High Court allowed the claim directing their appointment on a higher post – Correctness:**

**Held:** Is erroneous and contrary to the spirit of the law – Dependent of a deceased employee, though eligible, not entitled to appointment at any position on compassionate basis as a matter of right – Such appointments, made on purely humanitarian grounds, to be viewed as exceptions to the general rules of appointment – Mere eligibility of the applicant cannot be reason enough to materialise his/her claim for appointment on a higher post – Once a family member of the deceased employee was offered appointment on compassionate basis, the financial crisis of the family was over – Once the right of an applicant to be considered for appointment

\* Author

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on compassionate grounds has been consummated, no further consideration warranted, his right stood exercised – Right once exercised could not be permitted to be exercised again and again by making it an endless exercise – Otherwise, it would be a case of ‘endless compassion’ – Such appointment 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 of eligibility – Respondents approached the Court belated after they had joined on the post on compassionate basis, as such claim to be rejected – Also claim of parity with another employee who had been granted similar benefit, misplaced since 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 – Foundation of any claim based on equity has to be devoid of the element of negative discrimination – Illegality committed by an authority cannot be validated and further perpetuated by its extension to other similarly placed persons – Such illegal orders, will not confer any right upon the other person to come to the court and enforce the same claiming discrimination – Plea of ignorance by the respondent of seeking appointment on a higher post and that a similar relief having been granted to others, the respondents should not be discriminated against, cannot be entertained – Ignorance of law is not an excuse – Negative discrimination cannot be claimed if no right can be made out – Impugned judgment set aside.  
[Paras 7.3, 8, 10, 11, 13, 15-24]

### Case Law Cited

*I.G. (Karmik) v. Prahalad Mani Tripathi, 2007 INSC 496 : [2007] 5 SCR 978 : (2007) 6 SCC 162; State of U.P. v. Premlata, 2021 INSC 619 : [2021] 8 SCR 597 : (2022) 1 SCC 30; State of W.B. v. Debabrata Tiwari, 2023 INSC 202 : [2023] 2 SCR 611 : (2025) 5 SCC 712; Umesh Kumar Nagpal v. State of Haryana & Ors., 1994 INSC 189 : [1994] 3 SCR 893: (1994) 4 SCC 138; Tinku v. State of Haryana & Ors., 2024 INSC 867 : [2024] 11 SCR 713 : 2024 SCC Online SC 3292; State of Rajasthan v. Umrao Singh, 1994 INSC 423 : [1994] Supp. 4 SCR 67 : (1994) 6 SCC 560; State of Orissa v. Laxmi Narayan Das, 2023 INSC 619 : [2023] 10 SCR 1049 : (2023) 15 SCC 273; Jyostnamayee Mishra v. State of Odisha, 2025 INSC 87 : [2025] 1 SCR 834 : 2025 SCC Online SC 117; Fertilizers and Chemicals Travancore Ltd. & Ors. v. Anusree*

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**K.B., 2022 INSC 1051 : [2022] 7 SCR 267 : 2022 SCC Online SC 1331 – referred to.**

**List of Keywords**

Compassionate appointment; Death of employee in service; Compassionate appointment to higher post; Sweepers; Junior Assistant; Humanitarian grounds; Financial crisis; Claim of parity; Negative discrimination; Plea of ignorance; Delay and laches.

**Case Arising From**

CIVIL APPELLATE JURISDICTION: Civil Appeal No(s). 12640-12643 of 2025

From the Judgment and Order dated 03.07.2018 and 31.01.2023 of the High Court of Judicature at Madras in WA Nos. 778 and 779 of 2017 and RA Nos. 69 and 70 of 2022, respectively

With

Civil Appeal No(s). 12644-12647 of 2025

**Appearances for Parties**

*Advs. for the Appellant(s):*

Jaideep Gupta, Sr. Adv., Ms. Purnima Krishna, M.F.Philip, Karamveer Singh Yadav, Togin M. Babichen, Ms. Racheeta Chawla, Ms. G. Indira.

*Advs. for the Respondent(s):*

M. Purushotman, Nikhil Jain, Srimanta Ray, Krishna R.S., Ms. Divya Jain.

**Judgment / Order of the Supreme Court**

**Judgment**

**Rajesh Bindal, J.**

1. This order will dispose of eight appeals which arise out of a common judgment<sup>1</sup> of the High Court<sup>2</sup> and order<sup>3</sup> passed in the subsequent review applications.

1 Dated 03.07.2018 in W.A.Nos.778 and 779 of 2017

2 High Court of Judicature at Madras

3 Dated 31.01.2023 in Review Application Nos.69 and 70 of 2022

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2. Aggrieved against the judgment of the Division Bench of the High Court, the present appeals have been filed. The High Court vide impugned judgment has directed that the respondents herein be given appointment on the post of Junior Assistant. They were initially appointed as sweepers on compassionate basis. The impugned judgment upheld the order of the learned Single Judge, who vide judgment dated 07.10.2016 passed in W.P Nos. 16758-16759 of 2015, directed the appellants to issue suitable orders for their appointment as Junior Assistants. They were also held entitled to receive salary for the post of a Junior Assistant from the date of the order. The respondents herein, on account of death of their fathers, who were working as sweepers, were initially granted appointment on compassionate basis as sweepers. It was in terms of the applications made by them. After huge delay, they preferred writ petitions claiming appointment to a higher post namely Junior Assistant raising the plea that they were qualified for the same at the time of the initial appointment. Learned Single Judge allowed the claim. The order was then upheld by the Division Bench and the applications for review were also dismissed. The aforesaid orders are under challenge in the present appeals.

**ARGUMENTS OF THE APPELLANTS**

3. Mr. Jaideep Gupta, learned senior counsel appearing for the appellants, contended that the impugned judgment of the High Court deserves to be set aside on more than one grounds. He submitted that appointment on compassionate basis is not a matter of right rather a concession given to the family members of a deceased employee to enable them to come out of sudden financial crisis. Once a dependent family member of a deceased has been offered appointment on a particular post and he has accepted the same, he cannot, later on, turn around and claim that he is entitled to a higher post on account of his better qualifications. At that stage the family cannot be said to be in financial crisis. Even otherwise, option once exercised by the family member of the deceased employee cannot be allowed to be exercised again once the earlier option fructified into employment to a post on which the person concerned had joined and had been working.

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- 3.1 There was huge delay in filing of writ petition<sup>4</sup> by the respondents. Hence, on that ground also the respondents deserved to be non-suited.
- 3.2 It was further submitted that the Government Orders have been wrongly interpreted by the High Court while granting relief to the respondents.
- 3.3 In support of the arguments, reliance has been placed upon the judgments of this Court in **I.G. (Karmik) v. Prahalad Mani Tripathi<sup>5</sup>**, **State of U.P. v. Premlata<sup>6</sup>** and **State of W.B. v. Debabrata Tiwari<sup>7</sup>**.

**ARGUMENTS OF THE RESPONDENTS**

4. In response, Mr. M. Purushothaman, learned counsel for the respondents, submitted that the relief which has been granted to them by the High Court does not call for interference by this Court as it pertains to employment to the member of a family which was in crisis. There is no mis-interpretation of the Government Orders. In fact, at the initial stage when the respondents accepted the employment offer, they did not know that they were entitled to the post of Junior Assistant, hence could not make a request for the same. The moment they came to know that other similarly situated persons had been given employment on the higher post, keeping in view their qualifications, they immediately took up the issue. There was no delay in the process. The respondents could not be discriminated. Considering the kind of qualification that the respondents possess, they should not be made to work on Class IV post especially when the Government Orders permit their employment on compassionate basis on a higher post. That being the case, there is no merit in the present appeals and the same deserve to be dismissed.

**DISCUSSION**

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

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4 W.P. No.16759 of 2015

5 2007 INSC 496 : (2007) 6 SCC 162

6 2021 INSC 619 : (2022) 1 SCC 30

7 2023 INSC 202 : (2025) 5 SCC 712

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6. The following table shows in brief the post on which the deceased employees were working, date of their death, the post for which their dependent/s applied, the date on which the employment was offered and the post that was offered, the date of joining thereon along with the date of filing of the writ petition, seeking appointment on a higher post.

<b>Details</b>	<b>M. Jayabal</b>	<b>S. Veeramani</b>
Father's post	Sweeper	Sweeper
Date of Father's death	29.01.2011	07.10.2006
Date of application	15.03.2012	29.12.2006
Date of appointment	06.09.2012	24.01.2007
Post on which appointment was made	Sweeper	Sweeper
Date of joining	11.09.2012	24.01.2007
Date of filing of W.P.	19.04.2015	19.04.2015

### WHETHER COMPASSIONATE APPOINTMENT

#### IS A MATTER OF RIGHT ?

7. First and the foremost issue which requires consideration by this Court in the present appeals is whether the compassionate appointment of a family member on account of death of an employee in service, is as a matter of right or not. The issue stands settled in an authoritative judgment of this Court in **Umesh Kumar Nagpal vs. State of Haryana & Ors.**<sup>8</sup> It was opined therein that the core objective behind granting compassionate employment is to enable the family to tide over sudden financial crisis and such favourable treatment that is given to the dependant of the deceased employee is a relief against destitution. It is totally on humanitarian grounds. The relevant paragraphs in are extracted below:

“2.....One such exception is in favour of the dependants of an employee dying in harness and leaving his family in penury and without any means of livelihood. In such

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cases, out of pure humanitarian consideration taking into consideration the fact that unless some source of livelihood is provided, the family would not be able to make both ends meet, a provision is made in the rules to provide gainful employment to one of the dependants of the deceased who may be eligible for such employment. The whole object of granting compassionate employment is thus to enable the family to tide over the sudden crisis. The object is not to give a member of such family a post much less a post for post held by the deceased. What is further, mere death of an employee in harness does not entitle his family to such source of livelihood. The Government or the public authority concerned has to examine the financial condition of the family of the deceased, and it is only if it is satisfied, that but for the provision of employment, the family will not be able to meet the crisis that a job is to be offered to the eligible member of the family. The posts in Classes III and IV are the lowest posts in non-manual and manual categories and hence they alone can be offered on compassionate grounds, the object being to relieve the family, of the financial destitution and to help it get over the emergency. The provision of employment in such lowest posts by making an exception to the rule is justifiable and valid since it is not discriminatory. The favourable treatment given to such dependant of the deceased employee in such posts has a rational nexus with the object sought to be achieved, viz., relief against destitution. No other posts are expected or required to be given by the public authorities for the purpose....”

*(emphasis supplied)*

- 7.1 In the **Premlata's case (supra)**, this court analysed the nature of appointment made on compassionate basis and opined that the same is an exception to the general rule of appointment in the public services. The aspirant has no right to compassionate appointment. It was clarified that the appointment on compassionate ground is a concession and not a right. The relevant paragraphs are extracted below:

“8. While considering the issue involved in the present appeal, the law laid down by this Court

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on compassionate ground on the death of the deceased employee are required to be referred to and considered. In the recent decision, this Court in State of Karnataka v. V. Somyashree [State of Karnataka v. V. Somyashree, (2021) 12 SCC 20 : 2021 SCC OnLine SC 704], had occasion to consider the principle governing the grant of appointment on compassionate ground. After referring to the decision of this Court in N.C. Santhosh v. State of Karnataka [N.C. Santhosh v. State of Karnataka, (2020) 7 SCC 617 : (2020) 2 SCC (L&S) 861] , this Court has summarized the principle governing the grant of appointment on compassionate ground as under : (V. Somyashree case [State of Karnataka v. V. Somyashree, (2021) 12 SCC 20 : 2021 SCC OnLine SC 704] , SCC para 10)

“10.1. That the compassionate appointment is an exception to the general rule.

10.2. That no aspirant has a right to compassionate appointment.

10.3. The appointment to any public post in the service of the State has to be made on the basis of the principle in accordance with Articles 14 and 16 of the Constitution of India.

10.4. Appointment on compassionate ground can be made only on fulfilling the norms laid down by the State’s policy and/or satisfaction of the eligibility criteria as per the policy.

10.5. The norms prevailing on the date of the consideration of the application should be the basis for consideration of claim for compassionate appointment.”

9. As per the law laid down by this Court in a catena of decisions on the appointment on compassionate ground, for all the government vacancies equal opportunity should be provided to all aspirants as mandated under Articles 14 and 16 of the Constitution. However, appointment on compassionate ground offered to a dependant of a

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deceased employee is an exception to the said norms.  
The compassionate ground is a concession and not a right.

(emphasis supplied)

10. Thus, as per the law laid down by this Court in the aforesaid decisions, compassionate appointment is an exception to the general rule of appointment in the public services and is in favour of the dependants of a deceased dying-in-harness and leaving his family in penury and without any means of livelihood, and in such cases, out of pure humanitarian consideration taking into consideration the fact that unless some source of livelihood is provided, the family would not be able to make both ends meet, a provision is made in the rules to provide gainful employment to one of the dependants of the deceased who may be eligible for such employment. The whole object of granting compassionate employment is thus to enable the family to tide over the sudden crisis. The object is not to give such family a post much less a post held by the deceased."

(emphasis supplied)

- 7.2 Later, similar view was expressed by a Three-Judge Bench of this Court in **Tinku vs. State of Haryana & Ors.**<sup>9</sup>. The relevant paragraph is extracted below:

"12. As regards the compassionate appointment being sought to be claimed as a vested right for appointment, suffice it to say that the said right is not a condition of service of an employee who dies in harness, which must be given to the dependent without any kind of scrutiny or undertaking a process of selection. It is an appointment which is given on proper and strict scrutiny of the various parameters as laid down with an intention to help a family out of a sudden pecuniary financial destitution to help it get out of the emerging urgent situation where the sole bread earner has expired, leaving them helpless and maybe penniless. Compassionate appointment

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is, therefore, provided to bail out a family of the deceased employee facing extreme financial difficulty and but for the employment, the family will not be able to meet the crisis. This shall in any case be subject to the claimant fulfilling the requirements as laid down in the policy, instructions, or rules for such a compassionate appointment."

- 7.3 Applying the above principles of law, it can be concluded that the dependent of a deceased employee, though eligible, is not entitled to appointment at any position on compassionate basis as a matter of right. Such appointments, made on purely humanitarian grounds, have to be viewed as exceptions to the general rules of appointment. It is important to note that mere eligibility of the applicant cannot be reason enough to materialise his/her claim for appointment on a higher post. Once a family member of the deceased employee is offered appointment on compassionate basis, the purpose stands well served. Therefore, the contention of the respondents that they are entitled to be reconsidered for further appointment on a higher post is not maintainable.

**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.
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

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deceased joined on the post to which appointment was given, was considered by this Court in **State of Rajasthan v. Umrao Singh<sup>10</sup>**. 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 defendant 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

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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 **Premlata (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

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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.

**DELAY AND LACHES**

13. The claim of the respondents/M. Jayabal & S. Veeramani also deserves to be rejected on the ground of delay and laches as has been noticed in the previous part of the judgment. Both the respondents had approached the Court belated after they had joined on the post they were offered appointment on compassionate basis. Reference for this purpose can be made to the judgment of this Court in **State of Orissa v. Laxmi Narayan Das<sup>11</sup>** wherein it was held that delay reflects the indolence of a litigant and the Court must scrutinise whether such belated lis must be entertained or not. Therefore, inordinate delay on behalf of any litigant to do an act required by law shall stand in his/her way for getting relief.
14. This Court in **Debabrata Tiwari's case (supra)** has opined that in a case where the claim for appointment on compassionate grounds is belated, for reasons of prolonged delay, the sense of immediacy is diluted and lost. The relevant paragraphs are extracted below:

“35. Considering the second question referred to above, in the first instance, regarding whether applications for compassionate appointment could be considered after a delay of several years, we are of the view that, in a case where, for reasons of prolonged delay, either on the part of the applicant in claiming compassionate appointment or the authorities in deciding such claim, the sense of immediacy is diluted and lost. Further, the financial circumstances of the family of the deceased, may have changed, for the better, since the time of the death of the government employee.

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41. Applying the said ratio to the facts of the present case, we hold that the respondent-writ petitioners, upon submitting their applications in the year 2006-2005 did nothing further to pursue the matter, till the year 2015 i.e. for a period of ten years. Notwithstanding the tardy approach of the authorities of the appellant State in dealing with their applications, the respondent-writ petitioners delayed approaching the High Court seeking a writ in the nature of a mandamus against the authorities of the State. In fact, such a prolonged delay in approaching the High Court, may even be regarded as a waiver of a remedy, as discernible by the conduct of the respondent-writ petitioners. Such a delay would disentitle the respondent-writ petitioners to the discretionary relief under Article 226 of the Constitution.”
15. It is a settled principle of law that delay in filing of writ petition before the High Court is fatal for grant of relief to the party. This principle is more applicable in the cases of compassionate appointments. The idea behind compassionate appointment is to take care of immediate financial crisis in the family of the deceased employee. In such case, the delay would mean that the family could survive even after death of the employee, as they may be having another source of income. In such circumstances, the party approaching the court with a significant delay can be denied the relief.

**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

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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**<sup>12</sup>. 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:

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"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

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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.

**FACTS OF THE CASE**

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.
21. From the aforesaid facts, it is established that the respondents/M. Jayabal & S. Veeramani had applied for a particular post and their prayer was accepted, as a result of which they were offered appointment on the post for which they had applied. After they had joined on the post offered to them on compassionate basis, consideration of their prayer for the same stood consummated. The families of both the respondents were no more in financial distress. The right once exercised could not be permitted to be exercised again and again by making it an endless exercise. An applicant for the post on compassionate basis may be eligible for any higher post but that does not mean he has right to be appointed on that post. This depends on the rules and the policy applicable and also the number of vacancies to be offered in that category. In fact, this is not an additional source of recruitment, rather an exception to the general rule of providing equal opportunities to all for recruitment in government jobs. This Court in **Fertilizers and Chemicals Travancore Ltd. & Ors. vs. Anusree K.B.**<sup>13</sup> has held that for consideration of an application for appointment on compassionate basis, financial status of the family is also a relevant factor. It is not a matter of selection or choice of an applicant for such a post, rather for the employer to consider various factors. The basic idea is to provide succour to the family to enable them to come out of immediate financial crisis.

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Delay in filing the application for compassionate appointment has also been held to be fatal for the exercise of such a right.

22. If the facts of the case in hand are considered, in our view, belated applications made by the respondents seeking appointment on a higher post, after they had already been appointed on a lower post, was rightly rejected by the competent authority. The view expressed by learned Single Judge and the Division Bench of the High Court directing their appointment on a higher post w.e.f the date of judgement was certainly erroneous and contrary to the spirit of the law laid down by this Court on the subject.
23. In our view, the issue of discrepancies/anomalies, as were sought to be pointed out with respect to the relevant government orders, or the rights which, according to the respondents, were flowing to them on the basis of the said government orders, is not required to be touched as, for the purpose of grant or refusal of relief to the respondents, nothing hinges on the said government orders.
24. The only plea raised by the respondents/M. Jayabal & S. Veeramani for seeking appointment on a higher post was that they were ignorant about their right for such appointment, initially, on a higher post and that a similar relief having been granted to others, the respondents should not be discriminated against. It is well-settled that ignorance of law is not an excuse, as a result of which, such plea raised by the respondents cannot be entertained. Further, negative discrimination cannot be claimed if a no right can be made out as per the settled position of law.
25. For the reasons mentioned above, we find merit in the present appeals. The same are accordingly allowed and the impugned judgment/s of the High Court are set aside. Resultantly, W.P.No.16759 of 2015 filed by respondent/M. Jayabal and W.P. No 16758 of 2015 filed by respondent/S. Veeramani before the High Court are dismissed. There shall be no order as to costs.

*Result of the case:* Appeals allowed.

<sup>†</sup>Headnotes prepared by: Nidhi Jain