

Rahul S/o. Ramnarayan Madankar & Anr. Vs. The New India Assurance Company Ltd. & Ors.

Civil Appeal No. _____ of 2026 arising out of SLP (Civil) No. 27425 of 2025 · Supreme Court of India · 2026-07-16 · Sanjay Karol · Nongmeikapam Kotiswar Singh · F2J-C-1053

Full judgment text

Rahul S/o. Ramnarayan Madankar & Anr. Vs. The New India Assurance Company Ltd. & Ors.

[Civil Appeal No. _____ of 2026 arising out of SLP (Civil) No. 27425 of 2025]

Nongmeikapam Kotiswar Singh, J.

1. Leave granted.

2. This appeal arises from the judgment dated 19.08.2023 passed by the High Court of Judicature at Bombay, Nagpur Bench, in Writ Petition No. 5560 of 2021. By the impugned judgment, the High Court dismissed the writ petition filed by the appellants and upheld the rejection of the appellant No.1's claim for compassionate appointment with the New India Assurance Company Limited (hereinafter referred to as the "respondent-company"), under the Scheme for Compassionate Appointment in Public Sector General Insurance Companies.

3. The appellant No.2, the father of the appellant No.1, applied for voluntary retirement on medical grounds before he attained the age of 55 years. The application was accompanied by a certificate issued by the Civil Surgeon, General Hospital, Gondia, certifying him as permanently incapacitated for further service. The respondent-company did not reject the said certificate before the appellant No.2 crossed 55 years. Nor did it call upon him before that date to submit a certificate from a duly appointed Medical Board. It called for such a certificate only after appellant No.2 crossed 55 years, and thereafter rejected the appellant No.1's claim for compassionate appointment on the ground that the appellant No.2 had retired after completing 55 years.

4. The issue, therefore, is whether the respondent-company, after receiving a retirement application on medical ground before the employee crossed the age threshold, could keep the application pending, communicate the deficiency only after the age threshold had crossed, and then rely upon that very consequence to deny the dependent's claim.

5. The facts of the case are that the appellant No.2, Ramnarayan Mahadeo Madankar, joined the respondent-company on 18.10.1984. He initially joined as sub-staff/Peon and was later working as Assistant Clerk-cum-Cashier at the Gondia Branch. His date of birth is 10.12.1960. The respondent-company introduced the Scheme for Compassionate Appointment in Public Sector General Insurance Companies by circular dated 12.11.2014, with effect from 01.11.2014. The Scheme reopened compassionate appointments in cases of death in service and retirement on medical grounds due to incapacitation before the employee reached 55 years of age.

6. The appellant No.2 suffered serious neurological problems while in service. The Civil Surgeon, General Hospital, Gondia issued a certificate on 21.07.2015 recording that the appellant No.2 was about 54 years old and was completely and permanently incapacitated for further service. On the very next day, i.e. 22.07.2015, the appellant No.2 submitted his application for voluntary retirement on medical grounds. The application recorded his date of joining as 18.10.1984, his date of birth as 10.12.1960 and his total service as 30 years and 8 months. It is not in dispute that the appellant No.2 had not completed 55 years on the date of his application.

7. As the application remained pending, the appellant No.2 sent a reminder on 06.11.2015 stating that he had submitted his VRS application dated 22.07.2015 with necessary documents and had not received any acknowledgment from the office. He sent another reminder on 01.12.2015, again stating that the VRS application had been submitted with necessary documents, that he had already sent one reminder on 06.11.2015, and that he had still not received any acknowledgment or status from the office.

8. These two reminders were sent before the appellant No.2 completed 55 years on 10.12.2015. Thus, before the age threshold expired, the respondent-company had before it the VRS application dated 22.07.2015, the Civil Surgeon's certificate dated 21.07.2015 and two reminders requesting action. Yet, before 10.12.2015, the respondent-company neither accepted the application nor rejected the medical certificate, nor called upon the appellant No.2 to produce a Medical Board certificate.

9. The respondent-company's own stand is that it called upon the appellant No.2 by letter dated 03.02.2016 to submit a disability certificate from a Medical Board. This communication came after the appellant No.2 had already crossed 55 years. The appellant No.2 thereafter obtained the Medical Board certificate from K.T.S. District General Hospital, Gondia on 10.02.2016. According to the respondent-company, the said certificate was submitted by a letter dated 09.03.2016.

The record also contains a representation dated 01.04.2016 wherein the appellant No.2 stated that he had complied with the documents demanded from time to time, including the Civil Surgeon's certificate dated 21.07.2015, the certificate of Dr. Shankar Khobragade dated 19.01.2016, the Medical Board certificate dated 10.02.2016 and the medical treatment papers demanded by the office. The said representation does not by itself establish that the certificate of Dr. Shankar Khobragade was submitted on 19.01.2016; it only shows that the certificate dated 19.01.2016 was referred to in the representation dated 01.04.2016.

10. The appellant No.2 thereafter sent another reminder dated 06.05.2016 stating that all necessary documents had been submitted and requested the respondent-company to inform him if it was not possible to decide the matter, so that he could take appropriate legal steps. The respondent-company accepted the voluntary retirement application on 31.05.2016 and relieved the appellant No.2 on 03.06.2016. The appellant No.1's application for compassionate appointment was thereafter forwarded by the Gondia Branch to the Personnel Department on 09.06.2016 with supporting documents.

11. The claim for compassionate appointment also remained pending for a considerable period. The appellants pursued the matter vide communications dated 04.10.2017, 02.01.2018, 29.01.2018, 27.04.2018, 04.10.2018 and 05.07.2019. The respondent-company eventually rejected the claim on 15.07.2019. The rejection proceeded on the ground that the Scheme applied only where the employee retired or was superannuated on medical grounds due to incapacity up to the age of 55 years, whereas the appellant No.2 had retired on medical grounds on 03.06.2016 after completing 55 years.

12. The High Court upheld the rejection. The High Court referred to Clause 1.1 of the Scheme and held that the certificate dated 21.07.2015 issued by the Civil Surgeon did not satisfy the requirement of certification by a duly appointed Medical Board. The High Court further held that the Medical Board certificate was obtained only on 10.02.2016, by which time the appellant No.2 had crossed 55 years. On that basis, the High Court concluded that the denial of compassionate appointment was not contrary to the Scheme.

13. Since the controversy turns substantially on whether the delay was attributable to the employee or to the respondent-company, the material dates may be noticed in brief:

Date

Event

Significance

14. At this stage, it is necessary to notice Clause 1.1 of the Scheme, since the controversy turns on the age threshold prescribed therein and the stage at which the respondent-company communicated the requirement of a Medical Board certificate. Clause 1.1 reads as follows:

"1.1 : To a dependent family member of permanent employee of a Public Sector General Insurance Company (PSGIC) who-

(a) dies while in service (including death by suicide).

OR

(b) is retired on medical grounds due to incapacitation before reaching the age of 55 years,

(incapacitation is to be certified by a duly appointed Medical Board in a Government Medical College / Government District Head Quarters Hospitals / Panel of Doctors nominated by the Company for the

purpose)."

15. The aforesaid clause contains two requirements in a case of medical retirement. First, the employee must have retired on medical grounds due to incapacitation before attaining the age of 55 years. Secondly, the incapacitation must be certified by a duly appointed Medical Board in a Government Medical College, Government District Head Quarters Hospital or by a panel of doctors nominated by the company for the purpose. The respondent-company is, therefore, right in contending that the claim cannot be considered outside the Scheme and that compassionate appointment cannot be granted merely on sympathy.

16. This position is consistent with the settled law. In *Umesh Kumar Nagpal v. State of Haryana*, (1994) 4 SCC 138, this Court explained the object and limits of compassionate appointment in the following terms:

"2. The question relates to the considerations which should guide while giving appointment in public services on compassionate ground. It appears that there has been a good deal of obfuscation on the issue. As a rule, appointments in the public services should be made strictly on the basis of open invitation of applications and merit. No other mode of appointment nor any other consideration is permissible. Neither the Governments nor the public authorities are at liberty to follow any other procedure or relax the qualifications laid down by the rules for the post. However, to this general rule which is to be followed strictly in every case, there are some exceptions carved out in the interests of justice and to meet certain contingencies.

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 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."

"6. For these very reasons, the compassionate employment cannot be granted after a lapse of a reasonable period which must be specified in the rules. The consideration for such employment is not a vested right which can be exercised at any time in future. The object being to enable the family to get over the financial crisis which it faces at the time of the death of the sole breadwinner, the compassionate employment cannot be claimed and offered whatever the lapse of time and after the crisis is over."

17. Later, in *Bhawani Prasad Sonkar v. Union of India*, (2011) 4 SCC 209, this Court considered the principles governing compassionate appointment in the context of medical invalidation. In para 15, this Court observed:

"15. Now, it is well settled that compassionate employment is given solely on humanitarian grounds with the sole object to provide immediate relief to the employee's family to tide over the sudden financial crisis and cannot be claimed as a matter of right. Appointment based solely on descent is inimical to our Constitutional scheme, and ordinarily public employment must be strictly on the basis of open invitation of applications and comparative merit, in consonance with Articles 14 and 16 of the Constitution of India. No other mode of appointment is permissible.

Nevertheless, the concept of compassionate appointment has been recognized as an exception to the general rule, carved out in the interest of justice, in certain exigencies, by way of a policy of an employer, which partakes the character of the service rules. That being so, it needs little emphasis that the scheme or the policy, as the case may be, is binding both on the employer and the employee. Being an exception, the scheme has to be strictly construed and confined only to the purpose it seeks to achieve."

18. The above authorities support the respondent-company only to the limited extent that compassionate appointment cannot be granted contrary to the governing Scheme. They do not support the further proposition that an employer may receive an application before the employee crosses the age threshold, keep the application pending beyond reasonable delay, communicate the essential deficiency only after the threshold has crossed, and thereafter rely on that very delay to defeat the claim. The requirement that the claim must remain within the Scheme does not release the employer from its duty to administer the Scheme fairly and within a reasonable time.

19. This principle was applied with particular force in *Malaya Nanda Sethy v. State of Orissa*, 2022 SCC OnLine SC 684. In that case, the application for compassionate appointment had remained pending for years, and the authorities later sought to apply a subsequent set of Rules. This Court held in paras 12 and 14 to 16 as extracted hereunder:

"12. Thus, from the aforesaid, it can be seen that there was no fault and/or delay and/or negligence on the part of the appellant at all. He was fulfilling all the conditions for appointment on compassionate grounds under the 1990 Rules. For no reason, his application was kept pending and/or no order was passed on one ground or the other. Therefore, when there was no fault and/or delay on the part of the appellant and all throughout there was a delay on the part of the department/authorities, the appellant should not be made to suffer. Not appointing the appellant under the 1990 Rules would be giving a premium to the delay and/or inaction on the part of the department/authorities.

There was an absolute callousness on the part of the department/authorities. The facts are conspicuous and manifest the grave delay in entertaining the application submitted by the appellant in seeking employment which is indisputably attributable to the department/authorities. In fact, the appellant has been deprived of seeking compassionate appointment, which he was otherwise entitled to under the 1990 Rules. The appellant has become a victim of the delay and/or inaction on the part of the department/authorities which may be deliberate or for reasons best known to the authorities concerned."

"14. Before parting with the present order, we are constrained to observe that considering the object and purpose of appointment on compassionate grounds, i.e., a family of a deceased employee may be placed in a position of financial hardship upon the untimely death of the employee while in service and the basis or policy is immediacy in rendering of financial assistance to the family of the deceased consequent upon his untimely death, the authorities must consider and decide such applications for appointment on compassionate grounds as per the policy prevalent, at the earliest, but not beyond a period of six months from the date of submission of such completed applications.

15. We are constrained to direct as above as we have found that in several cases, applications for appointment on compassionate grounds are not attended in time and are kept pending for years together. As a result, the applicants in several cases have to approach the concerned High Courts seeking a writ of Mandamus for the consideration of their applications. Even after such a direction is issued, frivolous or vexatious reasons are given for rejecting the applications.

Once again, the applicants have to challenge the order of rejection before the High Court which leads to pendency of litigation and passage of time, leaving the family of the employee who died in harness in the lurch and in financial difficulty. Further, for reasons best known to the authorities and on irrelevant considerations, applications made for compassionate appointment are rejected. After several years or are not considered at all as in the instant case.

16. If the object and purpose of appointment on compassionate grounds as envisaged under the relevant policies or the rules have to be achieved then it is just and necessary that such applications are considered well in time and not in a tardy way. We have come across cases where for nearly two decades the controversy regarding the application made for compassionate appointment is not resolved. This consequently leads to the frustration of the very policy of granting compassionate appointment on the death of the employee while in service. We have, therefore, directed that such applications must be considered at an earliest point of time. The consideration must be fair, reasonable and based on relevant consideration. The application cannot be rejected on the basis of frivolous and for reasons extraneous to the facts of the case. Then and then only the object and purpose of appointment on compassionate grounds can be achieved."

20. The same conclusion also flows from the broader principle that no authority can take advantage of its own default. In *Kusheshwar Prasad Singh v. State of Bihar*, (2007) 11 SCC 447, this Court observed

that where the authority was required to act in a particular manner, its failure to do so could not prejudice the citizen. The Court held:

"12. The authority cannot neglect to do that which the law mandates and requires doing. By not issuing consequential final statement under Section 11(1) of the Act, the authority had failed to discharge its statutory duty. Obviously, therefore, the appellant is justified in urging that such default in discharge of statutory duty by the respondents under the Act cannot prejudice him."

"16. It is settled principle of law that a man cannot be permitted to take undue and unfair advantage of his own wrong to gain favourable interpretation of law. It is sound principle that he who prevents a thing from being done shall not avail himself of the nonperformance he has occasioned. To put it differently, 'a wrong doer ought not to be permitted to make a profit out of his own wrong'."

21. Though the aforesaid observations were made in a different statutory context, the principle culled can provide a safe guidance in resolving the issue in the present case. The respondent-company was dealing with a time-sensitive application. Clause 1.1 of the Scheme made the age of 55 years a material threshold. Once the appellant No.2 applied for voluntary retirement on medical grounds before attaining 55 years of age and supported the application with a Government medical certificate, the respondent-company was required to scrutinise the application with reasonable promptitude. If the Civil Surgeon's certificate was considered insufficient, the respondent-company had to inform the appellant No.2 so before the age threshold expired. It could not remain silent till the appellant No.2 crossed 55 years and thereafter, rely on the consequence of its own delayed action.

22. The respondent-company's principal submission is that Clause 1.1 uses the expression "is retired on medical grounds" and not "applies for retirement on medical grounds". Ordinarily, such a submission may carry force. Where an employee applies belatedly, fails to submit any medical material, or does not comply with a timely direction to produce the prescribed certificate, the dependent cannot insist that the date of application must necessarily replace the date of retirement. The present case, however, does not fall in that category.

23. The appellant No.2 submitted his application on 22.07.2015, before attaining 55 years of age. He enclosed the certificate dated 21.07.2015 issued by the Civil Surgeon, General Hospital, Gondia. The certificate certified him as completely and permanently incapacitated for further service. The respondent-company may contend that the Civil Surgeon's certificate did not satisfy the requirement of Clause 1.1, which refers to certification by a duly appointed Medical Board in a Government Medical College / Government District Head Quarters Hospital / panel of doctors nominated by the company. Even assuming that contention to be correct, the respondent-company was required to communicate the deficiency within a reasonable time and, in any event, before the appellant No.2 crossed 55 years on 10.12.2015.

24. The record shows that the appellant No.2 did not remain inactive after submitting his application. He sent reminders on 06.11.2015 and 01.12.2015. Both reminders preceded the age threshold. By then, the respondent-company had before it the VRS application, the Civil Surgeon's certificate and the reminders requesting action. Yet, the respondent-company neither decided the application nor informed the appellant No.2 that a Medical Board certificate was required.

25. The respondent-company, on its own showing, called for the Medical Board certificate only by letter dated 03.02.2016. By that date, the appellant No.2 had already crossed 55 years. The appellant No.2 thereafter obtained the Medical Board certificate on 10.02.2016, within seven days of the respondent-company's communication. This conduct clearly shows that the appellant No.2 did not delay the production of the Medical Board certificate once the requirement was communicated to him. The delay in obtaining the Medical Board certificate before the age threshold was, therefore, a consequence of the respondent-company communicating the requirement only after the threshold had already crossed.

26. Clause 1.1 cannot be construed in a manner that enables the employer to control eligibility through delayed processing. The purpose of the age condition is to identify cases where an employee is medically incapacitated before the prescribed age. The purpose is not to enable the employer to defer scrutiny until the age condition expires and thereafter reject the dependent's claim on that basis.

The requirement of certification by a duly appointed Medical Board in a Government Medical College / Government District Head Quarters Hospital, or by a panel of doctors nominated by the Company, is

intended to ensure that the claim of medical incapacitation is duly verified and that frivolous applications are not entertained. Further, as the Scheme itself contemplates certification by a panel of doctors nominated by the Company, the respondent-company was expected either to refer the appellant No.2 to such a panel, if one had been constituted, or to promptly inform him to obtain certification from the other authorities contemplated under Clause 1.1.

Having remained silent after receiving the application and the Civil Surgeon's certificate, the respondent-company could not thereafter turn around belatedly and deprive the appellants of the benefit available under the Scheme. Such a technical construction adopted by the respondent-company would place the benefit of the Scheme at the mercy of administrative delay and would defeat the fairness inherent in the administration of a beneficial scheme.

27. We also find guidance from Bhawani Prasad Sonkar (*supra*), where this Court, after finding that the rejection of compassionate appointment could not be sustained, did not remand the matter indefinitely but issued a direction for grant of employment. In paras 24 and 25, this Court held:

"24. In light of the fact that Circular dated 29th November, 2001 was not applicable in the case of appellant's father, inasmuch as the benefit of the 29th April, 1999 Circular was not extended to him, and he was made to retire from service, we are of the opinion that the earlier circular dated 22nd September, 1995 is applicable in the instant case. Consequently, the appellant would be entitled to employment on compassionate ground as the said Circular contemplates compassionate employment for the wards of those employees who have been medically de-categorized, and have retired, without being offered an alternative suitable job. We are unable to accept the plea of the respondents that on being de-categorized, appellant's father had opted for voluntary retirement.

25. In light of the foregoing discussion, the appeal is allowed; the impugned judgment is set aside and it is directed that the appellant shall be granted employment on compassionate ground within three months of the receipt of copy of this judgment, subject to his complying with other eligibility conditions, as applicable on 1st September, 1999. However, for all intents and purposes, he shall be deemed to be in service from the date of actual joining."

28. In the present case, the rejection letter dated 15.07.2019 was founded on the ground that the appellant No.2 had retired on medical grounds on 03.06.2016 after completing 55 years. For the reasons already recorded, the respondent-company could not have relied upon the said circumstance, since the appellant No.2 had applied for voluntary retirement on medical grounds before attaining 55 years, had supported the application with a Government medical certificate, had sent reminders before crossing 55 years, and the requirement of a Medical Board certificate was communicated by the respondent-company only after he had crossed 55 years.

29. We, therefore, do not lend our agreement to the approach adopted by the High Court in accepting the tenuous self serving plea of the respondent-company. The High Court treated the date of the Medical Board certificate and the date of acceptance of voluntary retirement as the relevant date of application, without examining the respondent-company's own delay in communicating the requirement of such certificate. This led to an erroneous affirmation of the rejection order.

30. Once the very basis of rejection is found unsustainable, the denial of compassionate appointment cannot be upheld. The claim has remained pending since 2016 and the appellants have been pursuing the matter diligently and continuously. The object of compassionate appointment would be defeated if, after such prolonged delay, the matter is again left at the stage at which the respondent-company ought to have acted years ago. In the peculiar facts of the case, the appropriate relief is to allow the appeal and direct grant of compassionate appointment.

31. Consequently, the judgment dated 19.08.2023 passed by the High Court of Judicature at Bombay, Nagpur Bench, in Writ Petition No. 5560 of 2021 is set aside. The rejection communication dated 15.07.2019 issued by the respondent-company is also set aside.

32. The appeal is accordingly allowed in the following terms:

(i) The respondent-company shall grant compassionate appointment to the appellant No.1 under the Scheme for Compassionate Appointment in Public Sector General Insurance Companies in accordance with the post/cadre contemplated under the Scheme.

(ii) If the appellant No.1 has crossed the applicable upper age limit during the pendency of these proceedings, the respondent-company shall grant the necessary age relaxation, since the delay in

finalising the claim cannot operate to his prejudice in the facts and circumstances of the case.

(iii) The appointment order shall be issued in favour of the appellant no.1 within eight weeks from the date of receipt of a copy of this judgment.

(iv) The appellant No.1 shall be entitled to monetary benefits only from the date of actual appointment.

33. In spite of setting aside the impugned judgment dated 19.08.2023 passed by the High Court, the direction issued by the High Court regarding verification and payment of any unpaid dues of the appellant No.2 is not interfered with. If any admissible dues remain unpaid, the respondent-company shall release the same to the appellant no.2 within eight weeks.

34. There shall be no order as to costs.

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

.....J. (Sanjay Karol)

.....J. (Nongmeikapam Kotiswar Singh)

New Delhi;

July 16, 2026.

Source disclosure: Complete sanitized public judgment text retained for research; official-primary replacement remains pending.

Disclaimer: General information only. Verify the current legal position and obtain professional advice before acting.