IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

THURSDAY, THE TWENTY THIRD DAY OF APRIL
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE THE CHIEF JUSTICE SRI APARESH KUMAR SINGH
AND
THE HONOURABLE SRI JUSTICE G.M. MOHIUDDIN

WRIT APPEAL NO: 570 OF 2025

Writ Appeal under clause 15 of the Letters Patent preferred against Order Dated 11/02/2025 in WP.No. 43094 of 2018 on the file of the High Court.

Between:

1. Canara Bank, (Erstwhile Syndicate Bank), Represented, by its Managing Director, and Chief Executive Officer, Personnel Department (Officers Wing), Head Office, Manipal, Karnataka State-576104.
2. The Managing Director and Chief Executive Officer, Canara Bank (Erstwhile Syndicate Bank), Personnel Department (Officers Wing), Head Office Manipal, Karnataka State-576104.
3. The Chief Manager (HR), Canara Bank (Erstwhile Syndicate Bank), Manipal, Human Resources Department Head Office, Manipal, Karnataka State-576104.

...APPELLANTS/RESPONDENTS

AND

Ms. Boda Deepthi Naik, D/o. Late Boda Sudhakar Aged about 29 years, Unemployed, R/o H. No. 7-2-11, Plot No. 4, Sri Laxmi Ganesh Nagar Colony, Bairamalguda, L.B. Nagar, Hyderabad - 79

...RESPONDENT/PETITIONER

I.A. NO: 1 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend operation of order dt.11/02/2025 in W.P. No. 43094 of 2018 passed by the Learned Single Judge of this Court during pendency of above appeal in the circumstances of the case.

Counsel for the Appellants: SRI A.KRISHNAM RAJU
Counsel for the Respondent: Ms. C.JYOTSNA DEVI FOR
SRI V.RAVICHANDRAN

The Court made the following: JUDGMENT

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

THE HON'BLE THE CHIEF JUSTICE SRI APARESH KUMAR SINGH
AND
THE HON'BLE SRI JUSTICE G.M.MOHIUDDIN

WRIT APPEAL No.570 of 2025

Dated:23 .04.2026

Between:

Canara Bank (erstwhile Syndicate Bank), rep. by its Managing Director & Chief Executive Officer, Personnel Department (Officers Wing), Head Office, Manipal, Karnataka – 576104 and two others.

...Appellants

and

Ms.Boda Deepthi Naik, D/o Late Boda Sudhakar,
Aged about 29 years, Unemployed R/o H.No.7-2-11, Plot No.4,
Sri Laxmi Ganesh Nagar Colony, Bairamalguda, L.B.Nagar,
Hyderabad – 79.

...Respondent

JUDGMENT (Aparesh Kumar Singh, CJ):

Mr. Alluri Krishnam Raju, learned counsel for the appellants.

Ms. C.Jyotsna Devi, learned counsel appears for Mr.V.Ravichandran, learned counsel for the respondent/writ petitioner.

2. The appellants/Bank is in appeal against the impugned judgment, whereby the learned writ court held that the petitioner be entitled for consideration as per Circular dated 08.04.2015, i.e., the scheme for

appointment on compassionate grounds to the dependants of the employee dying in harness and retiring on medical grounds due to incapacitation before reaching the age of 55 years or payment of *ex-gratia* lumpsum amount in lieu of compassionate appointment.

3. In order to appreciate the issue at hand, relevant facts are being narrated hereinafter. The petitioner's father while working as Senior Manager, M.J.Road, Currency Chest, Hyderabad, in the appellant Bank died on 15 04.2017. He is survived by the petitioner/daughter, wife and son and 92 year old mother. Family pension was sanctioned on 03.07.2017. Application for compassionate appointment was submitted on 12.07.2017 by the petitioner. While the application remain pending, the scheme of compassionate appointment dated 08.04.2015 was replaced by the new scheme vide circular dated 31.01.2018, which was made effective from 05.08.2014. It prescribed a ceiling of total income of the family Rs.35,000/- per month to decide the eligibility criteria for compassionate appointment. The rejection order, dated 23.03.2018 computed the total monthly income of the family as Rs.43,333/- which was more than the ceiling of Rs.35,000/- per month. The writ petitioner assailed the rejection order before the learned writ court and also sought a writ of mandamus declaring her entitlement for being appointed on

compassionate grounds in clerical cadre consequent to the demise of her father in harness on 15.04.2017.

4. The appellants Bank filed its counter affidavit. A detailed calculation of the monthly income of the petitioner's family from all sources was furnished. The Bank took a plea that since the new scheme was made effective from 05.08.2014, the case of the petitioner would be covered by the new scheme irrespective of the date of death or application for compassionate appointment made.

5. The learned writ court after considering the rival submissions of the parties and relying on the decision of the apex court in **the Secretary to Government, Department of Education (Primary) vs. Bheemesh Alias Bheemappa**[1], held that the interpretation as to the applicability of a modified scheme should depend only upon a determinate and fixed criteria such as the date of death and not an indeterminate and variable factor. Therefore, it was held that the scheme prevalent at the time of death of employees has to be taken as factor to determine the eligibility of the petitioner. The learned writ court also distinguished the decisions rendered in the case of **Bank of Baroda vs. Baljit Singh**[2] and the **State**

[1] Civil Appeal No.7752 of 2021, dated 16.12.2021
[2] 2023 SCC OnLine SC 745

of West Bengal vs. Debabrata Tiwari[3] relied upon by the appellant Bank. The learned writ court also observed that the computation of monthly income was made on hypothetical assumptions. The stipulation of family income of Rs.35,000/- per month was not there in the old scheme. The appellants Bank being aggrieved has preferred this appeal.

6. From the pleadings on record and submissions of the learned counsel for the parties, the main issue required to be answered is whether the case of petitioner is to be considered under the old scheme dated 08.04.2015 or under the new scheme dated 31.01.2018, which was made effective from 05.08.2014.

7. Learned counsel for the appellants Bank has referred to the case of **Canara Bank vs. Ajithkumar G.K.**[4], wherein the apex court has examined the number of precedents on this issue. He submits that as on date, since the three-Judge Bench of the apex court in **N.C.Santhosh vs. State of Karnataka**[5] has referred the matter to the Larger Bench, the principle laid down therein should govern the case of the parties. He has relied upon para 19 of the aforesaid decision. It is further submitted that later another Bench of three-Judges in **State of Madhya Pradesh vs.**

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[3] 2023 SCC OnLine SC 219
[4] 2025 SCC OnLine SC 290
[5] (2020) 7 SCC 617

Amit Shrivas[6] has held that the case for compassionate appointment is to be considered in terms of the applicable policy as existing on the date of demise of employee, unless subsequent policy is made applicable retrospectively. In the instant case, the new scheme has been made retrospectively applicable with effect from 05.08.2014, as such the case of the petitioner would be guided by the new scheme. It is submitted that in the case of **Bheemesh** (supra), a two-judge Bench of the apex court considered the decision in the case of **N.C.Santhosh** (supra) and laid down the proposition that a rule of interpretation which produces different results, depending upon what the individuals do or do not do, is inconceivable and that the applicability of a modified scheme should depend only upon a determinate and fixed criteria such as the date of death and not an indeterminate and variable factor. But the position of law declared by the three-Judge Bench in the case of **N.C.Santhosh** (supra) which is of a larger coram, should be made applicable. The apex court in the said case at para 19 has held that the norms prevailing on the date of consideration of the application should be the basis for consideration of claim for compassionate appointment. A dependant of a government employee, in the absence of any vested right accruing on the date of death of the government employee, can only demand

[6] (2020) 10 SCC 496

consideration of his/her application. He is, however, disentitled to seek consideration in accordance with the norms as applicable, on the date of death of the government employee. Therefore, the impugned judgment dated 08.04.2015 deserves to be set aside, as the new scheme has been made effective from 05.08.2014 and the case of the petitioner was rejected on 23.03.2018 after coming into force of the new scheme.

8. On behalf of the petitioner, the chronology of facts is not disputed. It is submitted that the eligibility of the petitioner should be considered under the scheme prevailing at the time of death as per the decision in **Bheemesh** (supra). It is further submitted that the apex court in the case of **Union of India vs. Tushar Ranjan Mohanty**[7] in para 15, has held that vested rights cannot be taken away by retrospective operation of the Rule. Therefore, the right which had accrued to the petitioner to be considered in terms of circular dated 08.04.2015 cannot be defeated by coming into force of new scheme dated 31.01.2018, with effect from 05.08.2014, more so, when the application for compassionate appointment was made prior to that on 12.07.2017. The claim of the petitioner has been rejected on the ground that as per the new scheme, the income of the family should be below Rs.35,000/- per month, whereas the monthly income of the family works out to be more

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[7] (1994) 5 SCC 450

than Rs.35,000/-. Therefore, the impugned judgment does not deserve interference.

9. We have considered the submissions of the learned counsel for the parties. We have taken note of the provisions of both the schemes – (i) circular dated 08.04.2015 (old scheme) and (ii) circular dated 31.01.2018 (new scheme), which was made effective from 05.08.2014. The new scheme prescribed a ceiling of family income of Rs.35,000/- per month to decide the eligibility criteria for compassionate appointment. The petitioner's family was found to have a monthly income above the ceiling limit of Rs.35,000/-, computation of which has been given in the counter affidavit. In the present appeal, the question, which has been posed at the outset, has to be answered in the light of the law prevailing on the subject. It appears that the learned writ court has relied upon the decision of the apex court in the case of **Bheemesh** (supra) rendered by a two-Judge Bench. In **Bheemesh** (supra), the decision rendered by the apex court in the case of **N.C.Santhosh** (supra) by a three-Judge Bench was also taken into consideration. However, it was held that the applicability of a modified scheme should depend only upon a determinate and fixed criteria such as the date of death and not an indeterminate and variable factor. A rule of interpretation, which

produces different results, depending upon what the individuals do or do not do, is inconceivable. The relevant discussion on this proposition as contained in paragraphs 19 and 20 of the said judgment, is extracted as under:

> "**19.** If compassionate appointment is one of the conditions of service and is made automatic upon the death of an employee in harness without any kind of scrutiny whatsoever, the same would be treated as a vested right in law. But it is not so. Appointment on compassionate grounds is not automatic, but subject to strict scrutiny of various parameters including the financial position of the family, the economic dependence of the family upon the deceased employee and the avocation of the other members of the family. Therefore, no one can claim to have a vested right for appointment on compassionate grounds. This is why some of the decisions which we have tabulated above appear to have interpreted the applicability of revised Schemes differently, leading to conflict of opinion. Though there is a conflict as to whether the Scheme in force on the date of death of the employee would apply or the Scheme in force on the date of consideration of the application of appointment on compassionate grounds would apply, there is certainly no conflict about the underlying concern reflected in the above decisions. Wherever the modified Schemes diluted the existing benefits, this Court applied those benefits, but wherever the modified Scheme granted larger benefits, the old Scheme was made applicable.
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> **20.** The important aspect about the conflict of opinion is that it revolves around two dates, namely, (*i*) date of death of the employee; and (*ii*) date of consideration of the application of the dependant. Out of these two dates, only one, namely, the date of death alone is a fixed factor that does not change. The next date, namely, the date of consideration of the claim, is something that depends upon many variables such as the date of filing of application, the date of attaining of majority of the claimant and the date on which the file is put up to the competent authority. *There is no principle of statutory interpretation which permits a decision on the applicability of a rule, to be based upon an indeterminate or variable factor*. Let us take for instance a hypothetical case where 2 government servants die in harness on 1-1-2020. Let us assume that the dependants of these 2 deceased government servants make applications for appointment on 2 different dates say 29-5-2020 and 2-6-2020 and a modified Scheme comes into force on 1-6-2020. If the date of consideration of the claim is taken to be the criteria for determining whether the

> modified Scheme applies or not, it will lead to two different results, one in respect of the person who made the application before 1-6-2020 and another in respect of the person who applied after 1-6-2020. In other words, if two employees die on the same date and the dependants of those employees apply on two different dates, one before the modified Scheme comes into force and another thereafter, they will come in for differential treatment if the date of application and the date of consideration of the same are taken to be the deciding factor. *A rule of interpretation which produces different results, depending upon what the individuals do or do not do, is inconceivable.* This is why, the managements of a few banks, in the cases tabulated above, have introduced a rule in the modified scheme itself, which provides for all pending applications to be decided under the new/modified scheme. Therefore, we are of the considered view that the interpretation as to the applicability of a modified Scheme should depend only upon a determinate and fixed criteria such as the date of death and not an indeterminate and variable factor."

10. However, the three-Judge Bench of the apex court in the case of **N.C.Santhosh** (supra) had in the context of a scheme for compassionate appointment after taking note of the decisions rendered earlier such as in the cases of **State Bank of India vs. Raj Kumar**[8], **MGB Gramin Bank vs. Chakrawarti Singh**[9], **Canara Bank vs. M.Mahesh Kumar**[10] and **State Bank of India vs. Sheo Shankar Tewari**[11], wherein the matter was referred for consideration by a Larger Bench at paragraph 19 held as under:

> "**19.** Applying the law governing compassionate appointment culled out from the abovecited judgments, our opinion on the point at issue is that the norms, prevailing on the date of consideration of the application, should be the basis for consideration of claim for compassionate appointment. A dependant of a government employee, in the absence of any

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[8] (2010) 11 SCC 661
[9] (2014) 13 SCC 583
[10] (2015) 7 SCC 412
[11] (2019) 5 SCC 600

vested right accruing on the death of the government employee, can only demand consideration of his/her application. He is, however, disentitled to seek consideration in accordance with the norms as applicable, on the day of death of the government employee."

11. Further, in the case of **Amit Shrivas** (supra), another three-Judge Bench of the apex court after the ruling in **N.C.Santhosh** (supra) held at para 16 as under:

> "**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. <u>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</u> [*State of Gujarat* v. *Arvindkumar T. Tiwari*, (2012) 9 SCC 545 : (2012) 2 SCC (L&S) 795]. Insofar as providing succour is concerned, unfortunately, since the demise of the late father of the respondent, 11 years have passed and really speaking, the aspect of providing succour to the family immediately does not survive. We have still examined the matter in the conspectus of the applicable policy. It is not in question that the Policy prevailing was one dated 18-8-2008. Clause 12.1 clearly proscribes work-charge/contingency fund and daily wager employees from compassionate appointment. The gravamen of the submission of the respondent is based on the classification of his late father as a permanent employee on account of having worked for more than 15 years and the consequent regularisation of his service."
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> (emphasis supplied)

12. In the case of **Ajithkumar** (supra) referred to by learned counsel for the respondent, these decisions have been considered. The scheme for compassionate appointment contained in circular No.154/93, dated 08.05.1993 was also under consideration in the case of **Mahesh Kumar** (supra). In the said circumstances, the apex court in **Ajithkumar** (supra), after survey of the decisions held that though the matter has

been referred to a Larger Bench, but so long as the decision in **Mahesh Kumar** (supra) is not overruled, it continues to remain binding. A reference to a Larger Bench as made by the coordinate bench in **Sheo Shankar Tewari** (supra) would only add to the agony and one cannot foresee an imminent resolution of the controversy, in the light of the admitted fact that the reference made by **Sheo Shankar Tewari** (supra) in 2019 is still unanswered. The apex court in conclusion held that in view of the foregoing discussion the impugned order of the High Court cannot be held to be entirely unjustified, to the extent it has relied on **Canara Bank** (supra). As regards, the criteria relating to suitability prescribed in the 1993 circular, the apex court in the case of **Ajithkumar** (supra) held that the Division Bench of the High Court ought not to have overlooked it while directing appointment of the respondent straightaway. The apex court, therefore, invoked the powers under Article 142 of the Constitution of India, and directed payment of a lumpsum amount of Rs.2.5 lakhs to the respondent within a period of two months, in addition to Rs.50,000/- paid to the respondent in terms of the earlier order passed by the coordinate bench while issuing notice.

13. From the facts of the case of **Ajithkumar** (supra), it is clear that the claim of compassionate appointment of the respondent was under the

scheme of 1993. In the case of **Mahesh Kumar** (supra), it was held that the case of the employee should be considered under 1993 scheme and not under the 2005 scheme. In the present case, the claim for compassionate appointment was made on 12.07.2017 under the Scheme dated 08.04.2015, upon the death of the petitioner's father on 15.04.2017. The claim was rejected on 23.03.2018 after coming into the new scheme on 31.01.2018, which was made applicable with retrospective effect on 05.08.2014. Therefore, in our opinion, it would be proper to follow the decision rendered by the three-Judge Bench of the apex court in the case of **N.C.Santhosh** (supra), wherein it has been held that the norms prevailing on the date of consideration of the application should be the basis for consideration of claim for compassionate appointment. Moreover, as per the ratio rendered in the case of **Amit Shrivas** (supra), six months after the ruling in **N.S.Santhosh** (supra) also, the case of the petitioner has to be considered under the subsequent scheme as it was made applicable retrospectively.

14. In view of the aforesaid discussion, we are of the considered view that the impugned judgment cannot be sustained in view of the ratio rendered by the three-judge bench of the apex court in **N.C.Santhosh** (supra) and **Amit Shrivas** (supra) on the issue at hand. Therefore, the

writ appeal is allowed and the impugned judgment is set aside. There shall be no order as to costs.

Miscellaneous applications pending, if any, shall stand closed.

SD/- A.V.S.S.C.S.M. SARMA
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HIGH COURT

DATED: 23/04/2026

JUDGMENT

WA.No.570 of 2025

ALLOWING THE WRIT APPEAL
WITHOUT COSTS

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