THE BOMBAY HIGH COURT REVISED GUIDELINES FOR APPOINTMENT ON COMPASSIONATE GROUND, 2019

1. This is a revised scheme for providing appointment on compassionate ground to a dependent family member of employee dying in harness.

2. The scheme shall come into force with effect from 13th September, 2019.

3. The scheme shall apply to a dependent family member of an employee of Department who dies while in service.

4. **Definitions** : For the purpose of the scheme:-

(I) "**Dependent Family Member**" means:-

(a) spouse; or

(b) son (including adopted son); or

(c) daughter (including adopted daughter), who is either unmarried or divorced or widowed or deserted by husband; or

(d) brother, sister or parent in the case of unmarried employee,

who was wholly dependent on the employee at the time of his/her death in harness,

(e) If the married daughter is the only offspring in the family of deceased employee and his/her family is dependent only on the married daughter, in such cases, the married daughter of the deceased employee,

shall be eligible for appointment on compassionate ground.

(I-A) "**Family**" shall mean the relations listed in (I).

(II) "**Employee**" for the purpose of this scheme means an employee holding any post of group 'C' or 'D' cadre on regular basis and not one working on daily wage or casual or ad-hoc or contract or re-employment basis, on the establishment of High Court of Judicature at Bombay and it's Benches or in any Court or establishment subordinate to High Court of Judicature at Bombay.

(III) "**Service**" includes extension in service (but not re-employment) after attaining the normal age of retirement on a Civil post.

5. Authority Competent to make Compassionate Appointment:-

The Chief Justice shall be the Competent Authority to make appointment on compassionate ground.

6. Posts to which such appointments can be made:-

Such appointments can only be made in Group "C" or Group "D" posts. 10% of total number of vacant posts falling vacant during a calender year (January to December) should be filled up by appointment on compassionate ground.

7. Eligibility:-

The scheme shall apply only if:-

(a) The family deserves immediate assistance for relief from financial destitution; however an application for compassionate appointment should not be rejected merely on the ground that the family of the employee has received the benefits under the various welfare schemes. While considering the request for appointment on compassionate ground, a balanced and objective assessment of the financial condition of the family has to be made taking into account its assets and liabilities (including the benefits received under the various welfare schemes) and all other relevant factors, such as, presence of an earning member, size of the family, age of the children and the essential needs of the family etc.

(b) Applicant for compassionate appointment is eligible and suitable for the post in all respect under the provisions of relevant Recruitment Rules.

8.(A) Normal procedure not to apply for appointment on compassionate ground :-

Compassionate appointment is exempted from observance of the following requirements:-

(a) Recruitment procedure i.e. without the agency of the Staff Selection Committees or the Employment Exchange, and

(b) Any ban on filling up of posts imposed by the Government of Maharashtra and the Government of Goa from time to time.

(B) Age limit for appointment on compassionate ground:-

The appointment on compassionate ground shall be admissible, to the candidates upto the age of 45 years only. The lower age-limit should be 18 years of age.

Note – I:-

Age eligibility shall be determined with reference to the date of application and not the date of appointment.

(C) Relaxation of minimum educational qualification:-

Under this scheme, the Chief Justice shall have power to relax the minimum educational qualification for appointment to any Group 'D' post. However, no such appointee would be eligible for promotion to the next higher post unless he/she has acquired minimum educational qualification for such promotional post.

9. Determination/availability of Vacancies:-

(a) Appointment on compassionate ground shall be made only on regular basis.

(b) Employment under the scheme is not confined to the Office in which deceased employee had been working. Such an appointment can be given anywhere within the Court/establishment depending upon availability of a suitable vacancy meant for the purpose of compassionate appointment.

10. Limitation for making request for compassionate appointment:-

Application for appointment on compassionate ground shall be made within one year of death of the employee in harness. However, in a suitable case the Chief Justice may consider request for compassionate appointment made after 1 year upto 2 years after the death of the employee.

Provided that if the eligible dependent family member of the deceased employee includes son or daughter, the time for making application for compassionate appointment would be one year from the date, the eldest of the children of the employee attains the age of majority or, at the discretion of the family, the eldest son of the employee attaining the age of majority.

11. Widow appointed on compassionate ground getting remarried:-

A widow appointed on compassionate ground will be allowed to continue in service even after re-marriage, subject to her continuing to fulfill obligations towards dependents of her deceased husband.

12. Eligibility where there is another earning member in the family:-

The Chief Justice may in deserving cases, even where there is already an earning member in the family, consider a dependent family member for compassionate appointment.

13. Missing Employee:-

Cases of missing employees would also be covered under the scheme for compassionate appointment, subject to the following conditions:-

(a) A request to grant the benefit of compassionate appointment is made after lapse of at least 2 years from the date from which the employee has been missing, provided that:

(i) an FIR to this effect has been lodged with the Police,

(ii) the missing person is not traceable and

(iii) the Chief Justice is of the opinion that the case is genuine.

(b) This benefit will not be applicable to the case of a employee

(i) who had less than two years of service left on the date from which he has been missing; or

(ii) in respect of whom there are reasonable grounds to suspect to have committed fraud, or to have joined any terrorist organization or to have gone abroad.

(c) Compassionate appointment in the case of a missing employee also would not be a matter of right and, as in other cases, it will be subject to fulfillment of all the conditions, including the availability of vacancy, laid down for such compassionate appointment under the scheme.

(d) While considering such a request, the result of the Police Investigation shall also be taken into account;

(e) All provision of the scheme mutatis-mutandis shall apply for such cases.

14. Procedure:-

(a) Request for appointment on compassionate ground shall be accompanied by information in the proforma annexed hereto.

(b) An officer from the establishment where the deceased employee was serving should meet the members of the family of the employee in question immediately after his death to advise and assist them in getting appointment on compassionate ground. The applicant should be called in person at the very first stage and advised in person, about the requirement and formalities to be completed by him.

(c) While giving the appointment on compassionate ground, it shall be incumbent upon said candidate to submit an affidavit stating that he/she (candidate) shall look after the family members of the deceased employee.

15. Request for change in post/person:-

An appointment made on compassionate ground cannot be transferred to any other person and any such request shall not be entertained.

16. Seniority:-

The inter se seniority of persons appointed on compassionate ground shall be fixed with reference to their date of appointment. Their interpolation with the direct recruits/promotees may also be made with reference to their dates of appointment without disturbing the inter se seniority of direct recruits/promotees. Provided that when a person is appointed on compassionate ground on the same date on which in the same cadre direct recruits or promotees are appointed or promoted, as the case may be, the person appointed on compassionate ground would be placed in seniority below the direct recruits or promotees, as the case may be.

17. General:-

(a) Appointments made on the ground of compassion should be done in such a way that persons appointed to the post do have the essential educational and technical Qualifications and experience required for the post consistent with the requirement of maintenance of efficiency of administration.

(b) It is clarified that a family member of Group 'D' employee can be appointed to Group 'C' post for which he/she is educationally qualified, provided a vacancy in Group 'C' post exists for this purpose.

(c) Request for compassionate appointment consequent on death of Group 'D' staff may be considered with greater sympathy by applying relaxed standards depending on the facts and circumstances of the case.

(d) Compassionate appointment will have precedence over absorption of surplus employees and regularization of daily wage/casual workers with/without temporary status.

(e) The compassionate appointment shall be granted on probation in terms of the Recruitment Rules.

(f) The information of 10% vacant post and pending applications should be submitted every year during the month of January by the head of department to the High Court.

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THE HIGH COURT OF JUDICATURE AT BOMBAY

ORIGINAL SIDE

NOTIFICATION

The Hon'ble the Acting Chief Justice and the Judges of the Bombay High Court are pleased to direct that the following amendment shall be made to the Para 10 of The Bombay High Court Revised Guidelines for Appointment on Compassionate Ground, 2019:-

"10. Limitation for making request for compassionate appointment:-

Application for appointment on compassionate ground shall be made within one year of death in harness, however, in a suitable case the Honourable the Chief Justice may consider request for compassionate appointment made after 1 year up to 2 years after the death of the Employee."

The aforesaid amendment shall come into force with effect from 16th February, 2023.

High Court, Original Side)
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Date: 15th March, 2023)

Sd/-
Registrar General
High Court of Judicature at Bombay