



2025:DHC:9374-DB



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 17.09.2025
Pronounced on: 28.10.2025

+ **W.P.(C)14356/2025&CM APPL. 58799/2025**
COMMISSIONER OF POLICE & ORS.Petitioners

Through: Mr.Akash Chatterjee, SPC
along with SI Rajesh.

versus

AMIT KUMAR & ORS. ... Respondents
Through: None.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE MADHU JAIN

J U D G M E N T

MADHU JAIN, J.

1. This petition has been filed challenging the Order dated 19.01.2023 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as the 'Tribunal') in O.A. 773/2020, titled ***Amit Kumar v. Govt. Of NCTD & Ors.*** (hereinafter referred to as the 'Impugned Order'), allowing the O.A. filed by the respondent herein. Challenge has also been laid to the Order dated 23.07.2025 passed by the learned Tribunal in M.A. No.



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1680/2024 filed by the respondent in the aforementioned O.A..

FACTS OF THE CASE

2. Late Shri Sohal Pal, the father of the respondent No.1 (hereinafter referred to as the 'respondent'), was employed as a Multi-Tasking Staff (MTS) with the Delhi Police since 30.01.1978, and unfortunately expired on 23.12.2013, leaving behind his wife and the respondent.

3. The respondent is 75% physically disabled as per his medical certificate, and belongs to the Scheduled Caste category. On 30.06.2015, the mother of the respondent submitted an application seeking compassionate appointment for her son to the post of MTS.

4. *Vide* communication dated 07.12.2015, the petitioners informed the respondent's mother that the request for compassionate appointment had been rejected on the ground that the respondent was 75% disabled and that there was no provision under the relevant rules or standing orders for recruitment of physically handicapped persons in Group 'C' cadre, except in the MTS category. It was further stated that, at that time, there was no available vacancy in the MTS cadre for compassionate appointment.

5. On 06.05.2016, the petitioners received a representation from the respondent through the office of the Hon'ble Lieutenant Governor of Delhi, which was also rejected *vide* Order dated 11.02.2016, reiterating the earlier grounds.



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6. Being aggrieved by the rejection, respondent approached the learned Tribunal for the first time by filing O.A. No. 1002/ 2017, challenging the orders of rejection.

7. On 12.07.2018, the petitioners issued Standing Order No. 39 of 2018, stipulating the comprehensive scheme for compassionate appointments in Delhi Police, laying down eligibility criteria, relaxations, and procedural requirements.

8. The learned Tribunal, *vide* order dated 28.09.2018, disposed of the O.A. No. 1002/2017, without entering into the merits of the matter, but directing the petitioners to reconsider the case of the respondent for compassionate appointment against any available vacancy in the prescribed quota and to pass a reasoned and speaking order within a period of three months.

9. Pursuant thereto, the Screening Committee, in its meeting held on 23.10.2019, considered various cases for compassionate appointment in the Delhi Police. However, *vide* Order dated 21.01.2020, the case of the respondent was again rejected on the ground that no vacancy in the MTS category was available for a physically challenged candidate.

10. Aggrieved thereby, the respondent once again approached the learned Tribunal by filing an O.A., that is O.A. No. 773/2020, where he sought the following reliefs:

“(i)To quash and set aside the order dated 21.1.2020 whereby the case of applicant for compassionate appointment has been rejected



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by the Screening Committee on the ground that there is no vacancy in MTS for Physically Challenged, order dated 11.02.2016 and order dated 15.12.2015 whereby denying the applicant for Compassionate Appointment on the pretext that there is no vacancy for the post of MTS in compassionate ground and to further direct the respondent to consider the case of the applicant on compassionate ground to the post of MTS (under Physically Challenged quota) and if found fit, to give appointment to the post of MTS post on compassionate ground under Physically Challenged quota with all consequential benefits.

Or/and

(ii) Any other relief which this Hon'ble court deems fit and proper may also be awarded to the applicant."

11. The learned Tribunal, *vide* the Impugned Order, allowed the said O.A., by holding as under:

"9. While allowing this OA, the respondents are directed to place the application/representation of the applicant for compassionate appointment again before the appropriate Screening Committee constituted for its purpose, which shall assess and reevaluate his claim strictly in accordance with rules and on its merits as independently evaluated. While considering the application of the applicant, the Screening Committee shall not be influenced by the decision taken earlier in the matter. Needless to add that the Screening Committee would always keep into consideration that the guiding spirit of consideration shall be the spirit of compassion. The said direction shall be complied with within the period of 12 weeks from the date of receipt of a certified copy of this order.

10. The OA is disposed of in view of the



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*aforesaid terms.
No order as to costs.”*

12. It is the case of petitioners that on 05.09.2024, the Screening Committee again assessed the representation of the respondent, however, though the respondent was also granted relaxation in terms of Clause 9 of Standing Order No. Welfare/04/2024, the respondent could not qualify the eligibility criteria on merits, as he only scored 50 marks, on the contrary other two candidates scored 76 marks and 74 marks, respectively.

13. The petitioners contend that the respondent filed M.A. No. 1680/2024 before the learned Tribunal, seeking execution of the Impugned Order dated 19.01.2023.

14. Before the learned Tribunal, the petitioners, through their learned counsel, submitted a letter dated 11.10.2024 stating that the respondent did not qualify the eligibility criteria on merits.

15. However, *vide* Impugned Order dated 23.07.2025, the learned Tribunal did not accept the explanation furnished by the petitioners and further directed them to report full compliance of the Impugned Order dated 19.01.2023 on the next date of hearing.

16. Aggrieved by the Impugned Orders, the petitioners have approached this Court by way of the present petition.

SUBMISSIONS OF THE LEARNED COUNSEL FOR THE PETITIONERS



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17. The learned counsel for the petitioners contends that the Impugned Orders dated 19.01.2023 and 23.07.2025 passed by the learned Tribunal are contrary to law and suffer from grave errors and that compassionate appointment is a concession and not a right and therefore must be strictly construed as an exceptional relief to mitigate sudden financial distress caused by the untimely death of a breadwinner while in service.

18. He submits that the respondent is not entitled to compassionate appointment as he does not fulfil the eligibility criteria and minimum merit score as prescribed under Standing Orders Nos. 39 of 2018 and 4 of 2024.

19. He further submits that after due consideration and allowing all prescribed relaxations, the Screening Committee found that the respondent failed the merit-based eligibility test, scoring only 50 marks, whereas other candidates scored 74 and 76 marks, thereby rendering the respondent unsuitable for appointment.

20. He contends that there was no vacancy available for the post of MTS in the physically challenged category at the relevant time, and therefore compassionate appointments cannot be granted in violation of vacancy norms or to the detriment of other meritorious candidates.

21. The learned counsel for the petitioners submits that the deceased employee's family receives family pension and other terminal benefits as per the Rules, thus negating any claim of indigence or urgent financial distress requiring compassionate



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appointment.

22. He submits that the principles laid down by the Supreme Court in ***Umesh Kumar Nagpal v. State of Haryana***, (1994) 4 SCC 138; ***Mumtaz Yunus Mulani v. State of Maharashtra***, (2008) 11 SCC 384; and ***N.C. Santhosh v. State of Karnataka***, (2020) 7 SCC 617, establish that compassionate appointment must be strictly governed by rules and eligibility criteria and not be treated as a source of regular recruitment.

ANALYSIS AND FINDINGS

23. We have considered the submissions made by the learned counsel for the petitioners.

24. The issue that arises for consideration in the present case is whether the petitioners were justified in denying compassionate appointment to the respondent on the sole ground of non-availability of vacancy in the physically disabled category.

25. Upon perusal of the material on record, it becomes evident that the petitioners have thrice rejected the respondent's request for compassionate appointment. Initially, *vide* order dated 07.12.2015, the claim was rejected on the ground that the respondent was 75% physically disabled and that there existed no provision for appointment of physically handicapped persons in Group 'C' posts other than in the MTS cadre, for which no vacancy was then available. Subsequently, in the Screening Committee meeting held on



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23.10.2019, the case met the same fate, being rejected once again, solely on the ground of ‘*no vacancy in MTS for physically challenged candidates.*’ And lastly on 05.09.2024, on the ground that the respondent did not meet the desired rank, with two other candidates scoring more than him in the qualifying examination. While it is the case of the petitioners that at the time of this evaluation of the respondent, factors such as marks scored by other candidates, relative merit points and relaxations to be provided for physically handicapped persons were considered, we find that in the communication dated 01.10.2024 issued by the Office of the Commissioner of Police: Delhi, the reason for rejection of the respondent as per the Screening Committee meeting held on 05.09.2024 is as under:

S.L. No.	Date of S.L. No.	Rank Name of deceased Belt No	Name of candidate	Relation with deceased	Reason for rejection	Distt./Units
16.	63.	MTS Sohan Lal 238/S	Amit Kumar	Son	No vacancy for MTS	South

(emphasis supplied)

26. It is evident from the record that instead of conducting an independent evaluation, the Screening Committee of the petitioners has merely reiterated its earlier stand, thereby defeating the very purpose of the compassionate appointment scheme which is intended to provide immediate succour to the bereaved family of a deceased employee who dies in harness.

27. In the present case, when examined through the prism of



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intersectionality, it becomes evident that the respondent's socially and economically disadvantaged background, being a person belonging to the Scheduled Caste community and further afflicted with seventy-five percent permanent physical disability, the rejection of his candidature on the sole ground that there was no vacancy for physically disabled persons, reflects a lack of awareness and sensitivity towards the principles of reasonable accommodation and inclusion. Such an action of the petitioners cannot withstand the test of fairness, for it is manifestly arbitrary and antithetical to the principles of justice, equity, and good conscience that animate our constitutional framework. It defeats the provisions of the Rights of Persons with Disabilities Act, 2016 (hereinafter referred to as the 'RPwD Act'), which was promulgated to bring effect to the Convention on Rights of Persons with Disabilities. The term 'reasonable accommodation' has been defined in Section 2(y) of the RPwD Act, as under:

“(y)“reasonable accommodation” means necessary and appropriate modification and adjustments, without imposing a disproportionate or undue burden in a particular case, to ensure to persons with disabilities the enjoyment or exercise of rights equally with others;”

28. Furthermore, the right of Persons with Disabilities (PwDs) to this reasonable accommodation has been provided in various provisions of the RPwD Act. To this effect, Section 3 of the RPwD Act stipulates as under:



“3. Equality and non-discrimination.—(1) The appropriate Government shall ensure that the persons with disabilities enjoy the right to equality, life with dignity and respect for his or her integrity equally with others.

(2) The appropriate Government shall take steps to utilise the capacity of persons with disabilities by providing appropriate environment.

(3) No person with disability shall be discriminated on the ground of disability, unless it is shown that the impugned act or omission is a proportionate means of achieving a legitimate aim.

(4) No person shall be deprived of his or her personal liberty only on the ground of disability.

(5) The appropriate Government shall take necessary steps to ensure reasonable accommodation for persons with disabilities.”

29. Section 20 of the RPwD Act mandates as under:

“20. Non-discrimination in employment.—(1) No Government establishment shall discriminate against any person with disability in any matter relating to employment: Provided that the appropriate Government may, having regard to the type of work carried on in any establishment, by notification and subject to such conditions, if any, exempt any establishment from the provisions of this section.

(2) Every Government establishment shall provide reasonable accommodation and appropriate barrier free and conducive environment to employees with disability.



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(3) No promotion shall be denied to a person merely on the ground of disability.

(4) No Government establishment shall dispense with or reduce in rank, an employee who acquires a disability during his or her service:

Provided that, if an employee after acquiring disability is not suitable for the post he was holding, shall be shifted to some other post with the same pay scale and service benefits: Provided further that if it is not possible to adjust the employee against any post, he may be kept on a supernumerary post until a suitable post is available or he attains the age of superannuation, whichever is earlier.

(5) The appropriate Government may frame policies for posting and transfer of employees with disabilities.”

30. Additionally, Section 21 of the RPwD Act even goes on to mandate that every government establishment should notify an equal opportunity policy wherein measures taken by it in pursuance of Chapter IV of the RPwD Act are detailed.

31. Chapter VI stipulates provisions for Persons with Benchmark Disabilities (PwBD), while Chapter VII contains the special provisions for Persons with Disabilities with high support needs. Hence, a holistic reading of the RPwD Act reveals that it seeks to operationalise the promise of equal opportunities to public employment as provided by the Constitution of India.

32. The Supreme Court in ***Om Rathod v. Director General of***



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Health Services, 2024 SCC OnLine SC 3130, emphasised the constitutional ethos underlying the rights of PwDs as under:

“47. When reasonable accommodation is denied to a person with disability, it amounts to discrimination and violates the fundamental rights of the aggrieved person and the preambular virtue of fraternity along with justice, liberty and equality. Persons with disability are not objects of pity or charity but an integral part of our society and nation. The advancement of rights for persons with disabilities is a national project along with eradication of all forms of discrimination. A component of this project is the inclusion of persons with disabilities in all pursuits of life.”

33. In **Re: Recruitment of Visually Impaired in Judicial Services**, 2025 INSC 300, the Supreme Court has held that the rights conferred on the PwDs, and in this case, a PwBD, have acquired a status of a ‘*Super Statute*’ and contains the ingredients of a quasi-constitutional law. It has held that the principle of reasonable accommodation is not a discretionary measure, but a fundamental right integral to achieving substantive equality for PwDs, forming part of the right to dignity as guaranteed under Article 21 of the Constitution of India. It has been opined as under:

“35. Thereafter, the United Nations Convention on the Rights of Persons with Disabilities was adopted in 2006 to which India is a signatory. Pursuant thereto, the RPwD Act, 2016 came to be passed. While it is true that the RPwD Act, 2016 came to be passed as part of fulfilment of India’s



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obligations under the treaty implementation regime and was enacted by the Parliament under Article 253 of the Constitution, the fact that ‘disability’ as a ground is not specifically stated under Article 15 of the Constitution, would not mean that the same is not part of the constitutional obligations of the State. The provisions under section 32 and section 34 of the RPwD Act, 2016 would also be a clear indication that similar to the State’s obligations to provide for special protection including in the form of reservation for socially and educationally backward classes in educational institutions as well as in employment as stated in Articles 15 and 16 of the Constitution, the State has taken up the obligation of providing similar protection including reservation in respect of PwD. In view of the same, it can now be said that it is high time that an antidiscrimination clause be included in the Constitution with a specific provision that the State shall not discriminate on the grounds of mental or physical disability in line with the principles as stated in the RPwD Act, 2016. At this juncture, it is relevant to point out that as many as 70 countries out of 189 contain ‘disability’ as one of the grounds mentioned specifically in the constitutional provisions containing the anti-discrimination clause.

36. In this context, it is also relevant to mention that the RPwD Act, 2016 today has acquired the status of a ‘super statute’. The term ‘super statute’ was first applied in 2001 by William N. Eskridge and John A. Ferejohn to characterise an ordinary statute that not only reveals intention but also establishes a new normative or institutional framework in the public culture and has a broad effect on the law. As a result, such statutes have a



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quasi-constitutional significance that exceed its former status as a statute. In the words of the authors, “these super-statutes penetrate the public normative and institutional and institutional culture”.¹⁶ Applying this test, it can safely be said that the RPwD Act, 2016 has acquired the status equal to that of a ‘super-statute’ and hence, contains the ingredients of a quasi-constitutional law.

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40. ... Thus, these rulings underscore the principle that reasonable accommodation is not a discretionary measure, but a fundamental right integral to achieving substantive equality for PwD, forming part of the right to dignity as guaranteed under Article 21 of the Constitution. It is also worthy to mention that the 73rd and 74th Amendments of the Constitution of India made it a Constitutional obligation for the State to make provisions for safeguarding the interest of the weaker section of the society, including ‘handicapped and mentally retarded’. Further, it is a well-established principle that the State has an obligation to apply the Directive Principles of securing a social order in promotion of the welfare of the people. The importance of Article 41 in the Constitutional scheme can be measured by this Court’s judgment in *Jacob M. Puthuparambil & others v. Kerala Water Authority and others*²², wherein, it was held that ‘a Court should interpret an Act so as to advance Article 41’. Therefore, Article 41 of the Constitution which is in the nature of a Directive Principle, imposes a duty on the State to make an effective provision, inter alia, for public assistance to disabled persons.



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41. The spirit of the RPwD Act, 2016 would reveal that the principle of reasonable accommodation is a concept that not only relates to affording equal opportunity to the PwD but also it goes further as to ensuring the dignity of the individual by driving home the message that the assessment of a person's suitability, capacity and capability is not to be tested and measured by medical or clinical assessment of the same but must be assessed after providing reasonable accommodation and an enabling atmosphere. The judgement of this Court in *Vikash Kumar* (supra) assumes increased significance in this regard. This Court in this case has expounded in detail the principle of reasonable accommodation by invoking the social model of disability. In response to the judgement, the Department of Disability Affairs, Government of India has notified guidelines for availing of scribes by all persons with specified disabilities to appear in written examinations thereby widening the ambit of its earlier guidelines issued in 2018 confining this privilege only to persons with benchmark disabilities. Very importantly, while overruling the earlier decision in *Surendra Mohan* (supra), this Court has held that any decision which is innocent to the principle of reasonable accommodation would amount to disability-based discrimination and is also in deep tension with the ideal of inclusive equality. After the judgement which has focused on a rights-based model and rejection of the medicalisation of the disability in order to assess the suitability and capability of PwD, the "suspicion ridden medical expertise driven model", is directly opposed to the principle as laid down by this court and also the spirit of the RPwD Act, 2016.



67. *The overall analysis would demonstrate that a rights-based approach necessitates that PwDs must not face any discrimination in their pursuit of judicial service opportunities, and instead, there must be affirmative action on behalf of the State to provide an inclusive framework. Now, it is high time that we view the right against disability-based discrimination, as recognized in the RPwD Act 2016, of the same stature as a fundamental right, thereby ensuring that no candidate is denied consideration solely on account of their disability. Further, as extensively discussed, the principle of reasonable accommodation, as enshrined in international conventions, established jurisprudence, and the RPwD Act, 2016, mandate that accommodations be provided to PwDs as a prerequisite to assessing their eligibility. In the light of the above, any indirect discrimination that results in the exclusion of PwDs, whether through rigid cut-offs or procedural barriers, must be interfered with in order to uphold substantive equality. The commitment to ensuring equal opportunity necessitates a structured and inclusive approach, where merit is evaluated with due regard to the reasonable accommodations required, thereby fostering judicial appointments that truly reflects the principles of fairness and justice.”*

34. In **Canara Bank v. Ajithkumar G.K.**, 2025 SCC OnLine SC 290, the Supreme Court has reiterated the principles concerning compassionate appointments. The guiding principles culled out therein are apposite to the present case and are referred to hereunder:

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



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

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d) The whole object of granting compassionate employment by an employer being intended to enable the family members of a deceased or an incapacitated employee to tide over the sudden financial crisis, appointments on compassionate ground should be made immediately to redeem the family in distress [see Sushma Gosain v. Union of India¹⁷].

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l) Indigence of the dependents of the deceased employee is the first precondition to bring the case under the scheme of compassionate appointment. If the element of indigence and the need to provide immediate assistance for relief from financial destitution is taken away from compassionate appointment, it would turn out to be a reservation in favour of the dependents of the employee who died while in service which would directly be in conflict with the ideal of equality guaranteed under Articles 14 and 16 of the Constitution [see Union of India v. B. Kishore²⁵].”

35. We find that a bare reading of Standing Order No. 4 of 2018 demonstrates that the scheme does not exclude physically handicapped dependents from consideration. On the contrary, it provides age relaxation to candidates with 40% or more disability, thereby acknowledging their eligibility for such appointments. Hence, the repeated rejection of the respondent’s case solely on the ground of ‘no vacancy’, without exploring the possibility of accommodation within the permissible quota or subsequent vacancy cycle, cannot be



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sustained in law. Similar is the scheme of the Standing Order No. 4 of 2024. We quote the relevant excerpts below:

A) Standing Order No. 39 of 2018

MTS	18-27 Yrs. (Genl) Upto 30 Yrs. (OBC) Upto 32 Yrs. (SC/ST)	10 th Std.	-	-	18-27 Yrs. (Genl) Upto 30 Yrs. (OBC) Upto 32 Yrs. (SC/ST)	10 th Std.	-	-
37, 40 & 42 Years for Physically handicapped (40% and above) for General, OBC and SC/ST categories respectively.								

(Emphasis supplied)

B) Standing Order No. 4 of 2024

MTS	18-27 Yrs. (Genl) Upto 30 Yrs. (OBC) Upto 32 Yrs. (SC/ST)	10 th Std.	-	-	18-27 Yrs. (Genl) Upto 30 Yrs. (OBC) Upto 32 Yrs. (SC/ST)	10 th Std.	-	-
37, 40 & 42 Years for Physically handicapped (40% and above) for General, OBC and SC/ST categories respectively.								

(Emphasis supplied)

36. However, in our view, the mandate of the RPwD Act, cannot be satisfied merely by giving this relaxation in age. The ‘reasonable accommodation’ mentioned therein has to be extend to reservation and special consideration of such individuals, especially in matters of Compassionate Appointment.

37. The learned Tribunal correctly noted that while the respondent cannot claim compassionate appointment as a matter of right, he is entitled to a fair and reasoned consideration in terms of the applicable policy. The communication impugned before the learned Tribunal, in



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addition to the subsequent Screening Committee report dated 05.09.2024 as cited in the communication dated 01.10.2024 issued by the Office of the Commissioner of Police: Delhi, does not indicate that the respondent's case was examined on its individual merits or upon an evaluation of the material and particulars furnished by him along with his application.

38. The Judgments referred to by the petitioners cannot come to the aid of the petitioners. In the present case, the respondent's candidature appears to have remained under evaluation for over ten years without any meaningful consideration. Being a person with seventy-five percent disability, he warrants a higher degree of empathy, reasonable accommodation and responsive action from the petitioners. The petitioners were expected to make due efforts to consider him for compassionate appointment keeping the above parameters in consideration.

CONCLUSION

39. Therefore, it is evident that the petitioners' approach in considering the case of the respondent for compassionate appointment was arbitrary and devoid of the compassion that the law mandates in such cases. Despite categorical directions from the learned Tribunal to reassess the respondent's claim in accordance with the rules and on its independent merits, guided by the spirit of compassion, the Screening Committee constituted by the petitioners failed to meaningfully



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implement those directions.

40. Accordingly, the present petition along with the pending applications is dismissed and the Impugned Orders passed by the learned Tribunal are upheld.

41. The Screening Committee of the petitioners is directed to reconsider the case of the respondent for compassionate appointment. Necessary orders in this regard shall be issued by the petitioners within a period of 8 weeks of this Judgment.

42. The petition along with the pending applications is disposed of with the above direction.

43. There shall be no orders as to costs.

MADHU JAIN, J.

NAVIN CHAWLA, J.

OCTOBER 28, 2025/RM