2025:KER:85653

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE N.NAGARESH

WEDNESDAY, THE 12TH DAY OF NOVEMBER 2025 / 21ST KARTHIKA, 1947

WP(C) NO. 3451 OF 2025

PETITIONER:

MINI R.K.
AGED 51 YEARS
W/O. LATE MOHANASUNDARAM K.P.,
PARVATHI NIVAS, CHAYYOTH P.O.,
NEELESWARAM VIA, KASARGOD,
PIN - 671314

BY ADVS.
SRI.C.P.PEETHAMBARAN
SMT.KARTHIKA PEETHAMBARAN
SMT.NEERAJA VENUGOPAL
SRI.ARJUN J DAS
SMT.DIVYA VARGHESE

RESPONDENTS:

1 STATE OF KERALA,
REPRESENTED BY THE SECRETARY,
GENERAL EDUCATION DEPARTMENT,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM., PIN - 695001

2 THE DIRECTOR GENERAL OF EDUCATION,
OFFICE OF THE DIRECTOR GENERAL OF EDUCATION,
HOUSING BOARD BUILDING, SANTHI NAGAR,
THIRUVANANTHAPURAM., PIN - 695001

**3 THE DEPUTY DIRECTOR OF EDUCATION,
OFFICE OF THE DEPUTY DIRECTOR OF EDUCATION,
VIDHYA NAGAR, KASARGOD, PIN - 671123**

**4 THE DISTRICT EDUCATIONAL OFFICER,
OFFICE OF THE DISTRICT EDUCATIONAL OFFICER,
KANHANGAD, KASARGOD, PIN - 671315**

**5 THE MANAGER,
KARIMBIL HIGH SCHOOL,
KUMBALAPPALLY P.O., PERIYANGANAM,
VIA NILESWAR, KASARGOD DISTRICT.,
PIN - 671314**

**BY ADVS.
SRI.MURALI PALLATH
SMT.ANIMA M., GOVERNMENT PLEADER**

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05.11.2025, THE COURT ON 12.11.2025 DELIVERED THE FOLLOWING:

CR

N. NAGARESH, J.

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W.P.(C) No.3451 of 2025

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Dated this the 12th day of November, 2025

J U D G M E N T

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The petitioner, who is a claimant under Rule 51B of Chapter XIVA KER, seeks to direct the respondents to appoint the petitioner in the existing vacancy of Office Attendant in the 5th respondent-School or in any other appropriate post within a time fixed by this Court.

2. The petitioner states that her husband Mohanasundaram K.P. was working as High School

Assistant (Social Studies) in the 5th respondent-School. Mohanasundaram K.P. passed away on 17.08.2017 while in service. The petitioner is his legally wedded wife and they had no children in their wedlock. The petitioner was dependent on the deceased husband.

3. The petitioner being a Rule 51B claimant applied for compassionate appointment in the prescribed form, on 18.12.2017. The Manager of the School acknowledged the application and stated that as on that date, there was no suitable vacancy to accommodate the petitioner. The Manager assured that the petitioner's request will be considered as and when vacancy arises.

4. The petitioner states that she has passed SSLC. Her father passed away long ago and she has no brothers. The mother of the petitioner is aged. There was nobody to look after the petitioner upon the death of her husband. Therefore, the petitioner married Harinarayanan T. on 16.09.2018. After remarriage, the petitioner is not getting

even family pension.

5. Though the petitioner requested the 5th respondent for grant of appointment on compassionate grounds, the 5th respondent did not respond positively. A vacancy of Office Attendant arose in the School on 31.03.2024. The petitioner again submitted an application. The 5th respondent is, however, dragging the matter. The petitioner therefore submitted a representation to the District Educational Officer. The 2nd respondent-Director General of Education informed the District Educational Officer as per Ext.P5 letter dated 03.12.2024 that remarriage is not a bar for getting compassionate appointment.

6. To the predicament of the petitioner, the 5th respondent has now issued Ext.P6 letter dated 04.01.2025 stating that since the petitioner has remarried, she is not eligible to get compassionate appointment. The 5th respondent further stated that the petitioner has not submitted application in the prescribed form and that she has

not submitted a certificate showing that she is still dependent on her deceased husband Mohanasundaram. The petitioner seeks to set aside Ext.P6.

7. The counsel for the petitioner urged that since the petitioner is a claimant under Rule 51B of Chapter XIVA KER and since remarriage is not a disqualification for compassionate appointment, the 5th respondent ought to have accommodated the petitioner in the existing vacancy. The 2nd respondent has already clarified the legal position in Ext.P5. The 5th respondent is therefore compellable to grant appointment to the petitioner.

8. The counsel for the petitioner relied on the judgment of this Court in ***Nakeri Vasudevan Namboodiri v. State of Kerala*** *[2007 (4) KLT SN 57 (C. No.63)]* and urged that the word “dependent of the deceased” have been so repeated often in Government Orders which would indicate that the requirement that the applicant himself should be a dependent of the deceased is an essential eligibility condition

under the Scheme. This Court in the afore judgment has held that an applicant for compassionate appointment should have been dependent of the deceased at the time of his/her death.

9. The counsel for the petitioner also relied on the judgment of the Hon'ble Apex Court in ***Shreejith v. Deputy Director (Education) Kerala*** *[2012 (3) KLT 214 (SC)]* wherein the Apex Court has held that an application for appointment cannot be rejected on the ground that the application was not in the prescribed form. The contention of the 5th respondent that the petitioner has not submitted application for compassionate appointment in the prescribed form is therefore not sustainable.

10. The 4th respondent filed a statement. The 4th respondent stated that on the death of the petitioner's husband on 17.08.2017, the petitioner became a claimant of appointment in Karimbil High School, Kumbalappally as per Rule 51B Chapter XIVA KER. The appointment of Ramya

P.V. as Office Attendant against the vacancy which arose on 03.06.2024 is kept in abeyance as per the interim order of this Court.

11. The 5th respondent-Manager resisted the writ petition. The 5th respondent stated that the petitioner was required to produce certain documents in support of her application for compassionate appointment. The petitioner did not submit any reply to Ext.R5(a) letter of the 5th respondent. In the income certificate produced by the petitioner, the name of Harinarayanan T. is seen against the column of guardian. The petitioner has informed that she had married after one year of the death of her husband. The 5th respondent came to the conclusion that the petitioner is not eligible for compassionate appointment on her remarriage.

12. The 5th respondent stated that even under Rule 51B, the Government Orders relating to employment assistance to the dependents of government servants dying in harness shall *mutatis mutandis* apply in the matter of

appointments. Since the petitioner got remarried on 16.09.2018, she lost her status of widow and consequently became ineligible for compassionate appointment. The petitioner has remarried a government employee. In the judgment in ***Sukumaran Nair v. State of Kerala and others*** *[2004 KHC 1636]*, this Court has held that appointment under Dying-in-Harness Scheme cannot be made long after the death of the employee.

13. The counsel for the petitioner relied on the judgment of the Hon'ble Apex Court in Civil Appeal Nos.7640 and 7641 of 2021 dated 11.12.2021 wherein the Apex Court has held that compassionate appointment is not a matter of right but is to enable the family to tie over an immediate crisis which may result from the death of the employee.

14. Relying on the judgment of the Apex Court in ***Santhosh N.C. v. State of Karnataka and others*** *[(2020) 7 SCC 617]*, the counsel for the 5th respondent urged that a dependent of a government employee, in the absence of any

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.

15. The counsel for the 5th respondent also cited the judgment in ***Canara Bank v. Ajithkumar G.K.*** *[2025 KHC OnLine 6133]* and contended that the norms prevailing on the date of consideration of the application should be the basis for consideration and not the norms as applicable on the date of death. The latest Government Order GO(P) No.12/2023/P&ARD dated 14.07.2023 makes it abundantly clear that widow/widower, who remarries, is not entitled to compassionate appointment.

16. I have heard the learned counsel for the petitioner, the learned Government Pleader representing respondents 1 to 4 and the learned counsel appearing for the 5th respondent.

17. The petitioner's husband Mohanasundaram K.P. died on 17.08.2017 while working as HSA (Social Science) in the Karimbil High School managed by the 5th respondent. The petitioner submitted application for compassionate appointment on 18.12.2017. The petitioner had SSLC qualification. There was no vacancy suitable to appoint the petitioner when the application was submitted. By Ext.P3 communication, the 5th respondent stated that there is no vacancy for the petitioner's qualification.

18. A vacancy suitable for the appointment of the petitioner arose in the School on 31.03.2024. When the petitioner contacted the 5th respondent, the 5th respondent took a stand that the petitioner is now not eligible for compassionate appointment as she got remarried. The 5th respondent relied on GO(P) No.12/1999 wherein it was stated that a remarried widow/widower is not entitled to compassionate appointment. The 5th respondent further stated that the petitioner failed to submit application in the

prescribed form.

19. The contention of the 5th respondent that the petitioner is not eligible for appointment as the application is not in the prescribed form is untenable. The Hon'ble Apex Court, in the judgment in ***Shreejith*** (supra) has held that an application for compassionate appointment cannot be rejected on the ground that the application was not in the prescribed form.

20. The issue therefore is confined to the question whether the remarriage of the petitioner to a government employee would disentitle the petitioner compassionate appointment. It is true that in the matter of appointment of government servants under compassionate grounds, the Hon'ble Apex Court has held that the compassionate appointment is not a matter of right but is to enable the family to tide over an immediate crisis which may result from the death of the employee. The Hon'ble Apex Court has also held in the judgment in ***Santhosh N.C.***

(supra) that a dependent of a government employee, in the absence of any vested right accruing on the death of the government employee, can only demand consideration of his/her application and that he/she is disentitled to seek consideration in accordance with the norms as applicable, on the day of death of the government employee.

21. However, in the case of the petitioner, the petitioner's husband was not a government employee. The petitioner's husband was a Teacher in a Government Aided School governed by the Kerala Education Act and the Rules. The petitioner's claim for compassionate appointment arises from a statutory provision. As far as staff of Government Aided Schools are concerned, compassionate appointment to dependents of deceased Aided School employees, is a valuable statutory right.

22. Rule 51B of Chapter XIVA KER reads as follows:

> 51B. The Manager shall give employment to a dependent of an Aide School Teacher dying in harness. Government Orders relating to employment assistance to the dependents of government servants dying in harness shall mutatis mutandis, apply in the matter of such appointments.

It is amply clear from the language of Rule 51B that grant of employment to dependent of an Aided School Teacher dying in harness is a mandatory statutory requirement.

23. The petitioner has been denied compassionate appointment on the ground that she has remarried. The death of the petitioner's husband occurred on 17.08.2017. The petitioner was the only daughter of her parents. The petitioner's father had passed away. The petitioner had to take care of her aged mother. The petitioner thought that in the prevailing Society, a widow cannot lead a peaceful life without a male support, especially when there is an aged mother to look after. The petitioner therefore remarried after one year of the demise of her husband.

24. In such circumstances, whether it will be legally justifiable to deny the petitioner the right accrued on her under Rule 51B KER, is the moot question. The Hon'ble Apex Court, in the judgment in ***Shreejith*** (supra), in paragraph 24, has observed that it is true that marriage by itself does not disqualify the person concerned from seeking a compassionate appointment. The said judgment was delivered in a case falling under the Kerala Education Rules.

25. While in the case of government servants, the claim for compassionate appointment is based on executive instructions issued and amended by the Government from time to time, as far as Teachers in the Aided Schools in Kerala are concerned, compassionate appointment is a valuable statutory right. The language of Rule 51B does not give rise to any doubt that the Manager of an Aided School "shall give employment to a dependent of an Aided School Teacher dying in harness". The right of dependents of a deceased Aided School Teacher is therefore

a vested right.

26. It is true that the Government Orders relating to employment assistance to the dependents of government servants dying in harness shall *mutatis mutandis*, apply in the matter of such appointments. But, going by the language of the Rule, such Government Orders cannot be applied in a manner to defeat the very conferment of right under Rule 51B Chapter XIVA KER.

27. The petitioner was grief stricken when her husband passed away at a comparatively young age. The petitioner was a single girl child. The petitioner's father passed away. The petitioner had to look after her aged mother. Compassionate appointment was not given to the petitioner immediately after the demise of her husband, perhaps because of non-availability of suitable vacancy. After one year, the petitioner got remarried. A remarriage in such circumstances cannot take away the statutory right vested with the petitioner. If the petitioner is declined

compassionate appointment in such circumstances, it would be a travesty of justice.

The writ petition is therefore allowed. Ext.P6 order is set aside. The respondents are directed to appoint the petitioner in the existing or next arising vacancy in the School.

Sd/-
N. NAGARESH, JUDGE

aks/06.11.2025

APPENDIX OF WP(C) 3451/2025

PETITIONER'S EXHIBITS

Exhibit P1	**TRUE COPY OF THE LEGAL HEIR CERTIFICATE DATED 12/3/2018 ISSUED BY THE TAHSILDAR VELLARIKUNDU**
Exhibit P2	**TRUE COPY OF THE CERTIFICATE DATED 3/5/2024 ISSUED BY THE VILLAGE OFFICER, KINANNUR**
Exhibit P3	**TRUE COPY OF THE LETTER DATED 23/12/2017 ISSUED BY THE 5TH RESPONDENT**
Exhibit P4	**TRUE COPY OF THE LETTER DATED 10/5/2024 ISSUED BY THE 5TH RESPONDENT**
Exhibit P5	**TRUE COPY OF THE LETTER DATED 3/12/2024 ISSUED BY THE 2ND RESPONDENT TO THE 4TH RESPONDENT WITH COPY OF THE PETITIONER**
Exhibit P6	**TRUE COPY OF THE ORDER DATED 4/1/2025 ISSUED BY THE 5TH RESPONDENT**

RESPONDENT'S EXHIBITS

Exhibit R5(a)	**TRUE COPY OF LETTER NO. 1/2024 DATED 20.02.2024 SENT BY THE 5TH RESPONDENT TO THE PETITIONER**
Exhibit R5(b)	**TRUE COPY OF LETTER NO.1/2024 DATED 06.04.2024 SENT BY THIS RESPONDENT TO THE PETITIONER**
Exhibit R5(c)	**TRUE COPY OF LETTER DATED 17.04.2024 RECEIVED FROM THE PETITIONER**
Exhibit R5(d)	**TRUE COPY OF LETTER NO. 1/2024 DATED 22.04.2024 SENT BY THIS RESPONDENT TO THE PETITIONER**
Exhibit R5(e)	**TRUE COPY OF LETTER NO. 1/2024 DATE 10.05.2024 SENT BY THE RESPONDENT TO THE PETITIONER**
Exhibit R5(f)	**TRUE COPY OF LETTER NO. 1/2024 DATED 27.07.2024 SUBMITTED BY 5TH RESPONDENT TO THE 4TH RESPONDENT**

Exhibit R5(g)	**TRUE COPY OF ANNEXURE II DATED 05.06.2024**
Exhibit R5(h)	**TRUE COPY OF COMMUNICATION BEARING FILE NO. SEEDA – KZD/393/2024 B1 DATED 24.09.2024**
Exhibit R5(i)	**TRUE COPY OF APPOINTMENT ORDER DATED 01.10.2024**