

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 2703 OF 2000

Vikas s/o. Mohanrao Kale .. Petitioner
Age. 25 years, Occ. Educated
unemployed, R/o. Jamwadi,
Taluka & Dist. Jalna.

Versus

1. The State of Maharashtra .. Respondents
2. The Chief Executive Officer,
Zilla Parishad, Jalna.
3. The Collector,
Collector Office, Jalna.

Mr. S.B. Ghute, Advocate for the petitioner.
Mr. D.V. Tele, AGP for respondent/State.
Mr. S.S. Tope, Advocate for respondent No.2.

**CORAM : A.V. NIRGUDE &
A.M. BADAR, JJ.**

DATED : 03.07.2015

ORAL JUDGMENT [PER : A.M. BADAR, J.] :-

1. Heard.

2. Learned Counsel for the petitioner submitted that his father who was working as Asstt. Teacher with Zilla Parishad School died in harness on 18.03.1995. Thereafter, according to learned Counsel for the

petitioner, the petitioner applied for appointment on compassionate ground on 19.06.1995. His application was duly considered and vide communication dated 20.08.1998, the Collector, Jalna informed the petitioner that he has been selected for appointment on compassionate ground and accordingly the Chief Executive Officer of the Zilla Parishad is informed accordingly. According to learned Counsel for the petitioner, the petitioner approached the Chief Executive Officer and submitted all relevant papers for his consideration for giving appointment to the petitioner. Learned Counsel for the petitioner submitted that the Chief Executive Officer of the Zilla Parishad rejected his claim for compassionate appointment vide order dated 08.03.2000 on totally irrelevant ground and without there being any authority in him to do so. Learned Counsel for the petitioner, therefore, submitted that order dated 08.03.2000 issued by the Chief Executive Officer rejecting the claim of the petitioner for appointment on compassionate ground needs to be quashed and set aside and direction for appointment of the petitioner on compassionate ground needs to be given.

3. We also heard Mr.S.S. Tope, learned Counsel appearing for the Zilla Parishad, Jalna and learned AGP Mr.D.V. Tele for the State. In submission of Mr. Tope, learned Counsel, appointments on compassionate ground are

contrary to the constitutional provisions and they are made for providing immediate solace to the family of the employees dying in harness. Mr. Tope, learned Counsel has further submitted that in this case, the death of father of the petitioner had occurred in 1995 and in passage of about 20 years, comparison cannot be said to be surviving. Hence, he submitted that the petition is devoid of merit and needs to be dismissed.

4. We have carefully gone through impugned order dated 08.03.2000 passed by the Chief Executive Officer, Zilla Parishad, Jalna, thereby rejecting claim for compassionate appointment made by the petitioner. True it is that the Collector, Jalna, on consideration of application of the petitioner found him to be eligible for appointment on compassionate ground but the Chief Executive Officer, Zilla Parishad, Jalna, had conducted enquiry in the matter and found that the petitioner at the relevant time was maintained by his brother- Jivan Kale. Impugned order, therefore, demonstrates that the case of the petitioner is not falling under the scheme for appointment on compassionate ground.

5. The appointments on compassionate ground is virtually a back-door entry in the public employment which is not permissible as per mandate of Article 16 of

the Constitution of India. Courts permit such employment in order to provide immediate solace to the employees who died untimely death. The object is to see that the family of such employee dying in harness should not be put to starvation. Therefore, Court is bound to see that the person seeking such employment fulfills criteria of the scheme made for providing compassionate employment. In the case in hand, the petitioner was found to be ineligible for appointment on compassionate ground as he was being maintained by his brother. Therefore, the petitioner is not complying with the provisions of the scheme framed by the Zilla Parishad for appointment on compassionate ground. In the light of these facts, we do not find any infirmity in the impugned order rejecting claim of the petitioner for appointment on compassionate ground and therefore the petition is devoid of merit.

6. As such, the writ petition is dismissed with no order as to costs. Rule discharged.

[A.M. BADAR, J.]

[A.V. NIRGUDE, J.]