

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO. 3607 OF 2014

SAVITA DHANANJAY KULKARNI AND ANOTHER

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Petitioners : Mr. Jadhavar Santosh S.

AGP for Respondents State: Mrs. M. S.Patni

Advocate for Respondent No.2 : Mr. Vivek Bhavthankar

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**CORAM : S. V. GANGAPURWALA &
V. K. JADHAV, JJ.****DATE : 31st July, 2015****PER COURT :**

1. Mr. Jadhavar, learned counsel for the petitioner states that the application of the petitioner No.2 seeking appointment on compassionate ground is rejected solely on the ground that petitioner No. 2 is a married daughter and not the only child of the deceased. Learned counsel submits that the Government resolution dated 26th February, 2013 is misread by the respondents. The Said government resolution only lays down that if the family is depending upon the married daughter, then married daughter is also entitled for appointment on compassionate ground, subject to condition that married daughter along-with her husband gives undertaking to maintain the family of the deceased. Learned counsel submits that undertaking is given by the petitioner No.2 that petitioner no.2 and her husband would maintain the family of the deceased. Leaned council submits that the reasons given for rejecting the application are erroneous.

2. Mr. Bhavthanankar, learned counsel submits that appointment on compassionate ground cannot be claimed as a matter of right. Learned counsel

relied upon the judgment of the Apex Court in the case of **Punjab National Bank & ors. Vs. Ashwini Kumar Taneja, reported in [2005 (2) Mh.L.J.502]**.

3. We have considered the submissions canvassed by the learned counsel for the respective parties.

4. We are only concerned with legality of the order assailed in the present writ petition. Application of the petitioner No.2 is rejected on the ground that the petitioner No.2 is not the only daughter and further, she is married. The Government Resolution dated 26th February, 2013, relied on by the authorities/respondents while rejecting the claim on compassionate ground of petitioner No.2 lays down that in case married daughter is the only child, or if the family is depending on the married daughter, then married daughter of the deceased would be entitled for appointment on compassionate ground. Both the contingencies are spelt out in the government resolution.

Here, mother and sister of petitioner No.2 are parties. The sister of petitioner No.2 is minor, taking education. Petitioner no.2 is married daughter of the deceased. She has filed an undertaking before this Court that she would maintain family of the deceased i.e. mother and sister.

5. Considering the above, the reason given for rejection of the claim of the petitioner No.2 for appointment on compassionate ground is not proper. As such, order dated 06.11.2013 (Exhibit K) is quashed and set aside.

6. Petitioner No.2 shall file undertaking as is filed in this court regarding maintenance of Petitioner Nos. 1 and 3, so also undertaking of her husband before the authorities.

7. On receipt of the said undertakings, respondent authorities shall consider the claim of the petitioner No.2 for appointment on compassionate ground on merits, expeditiously, preferably within three months.
8. Writ petition is accordingly disposed of. No costs.

(V. K. JADHAV, J.)

(S. V. GANGAPURWALA, J.)

JPC