

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

WRIT PETITION NO. 2554 OF 2015

SEEMA SACHIN DHONDE
VERSUS
STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Mr. B.T.Bodke h/f Mr. S.N.Gaikwad
AGP for Respondents: Mrs S.A.Dhumal
Advocate for Respondents 3,4 : Mr. A.V. Hon

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CORAM : S V GANGAPURWALA & V.K. JADHAV, JJ.
Dated: July 20, 2015

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PER COURT :-

1. Learned counsel for the petitioner submits that proposal seeking approval to the appointment of the petitioner on compassionate ground has been rejected. Learned counsel further submits that husband of the petitioner was working with Respondent No.4 as an Assistant Teacher. Petitioner, being wife, applied for appointment on compassionate ground for the post of Junior Clerk which was vacant. The petitioner belongs to open category. Said post was also for open category. According to the learned counsel, the petitioner came to be appointed as Junior Clerk with Respondent No.4 vide appointment order dated 30.6.2014. Accordingly, the petitioner joined on 1.7.2014. Learned counsel submits that the respondent No.2 rejected said proposal on the ground that name of the petitioner does not appear in the waiting list prior to 31.12.2011 and that process of absorption is not completed as per Government Resolution dated 20.06.2014. According to the learned counsel, name of the petitioner was at serial no.2. Person at serial no.1 was already appointed in the

year 2003 and petitioner was lone person in the list for being considered for appointment on compassionate ground. According to the learned counsel, the provisions of surplus candidates or ban on recruitment would not apply to the appointment on compassionate ground.

2 Mr. Hon, learned counsel for respondents submits that respondent had appointed the petitioner on compassionate ground and had submitted the proposal for appointment on compassionate ground.

3. Learned AGP states that, in fact, the respondent Institution is required to maintain the list of the persons who have claimed appointment on compassionate ground and, as per the seniority appointment has to be made. In that view, order is rightly passed.

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

5. The Respondent Management has stated on affidavit that there were only two persons who have sought appointment on compassionate ground. The person who was at Serial No.1 is already appointed in the year 2003 and his appointment is already approved. It appears that, there is only one person i.e. the petitioner who was awaiting appointment on compassionate ground. As such, the reasons mentioned in the order rejecting

the approval does not seem to be in consonance with the factual matrix. As per Government Resolution dated 28.6.2005 is concerned, same may not apply as husband of the petitioner died on 2.2.2014 and petitioner joined her services on 1.7.2014 i.e. much prior to the said Government Resolution. Said Government Resolution would certainly not apply with retrospective effect. In light of the above, we pass following order.

O R D E R

1. Impugned order is quashed and set aside.
2. The Respondent No.2 shall re-consider the proposal seeking approval to the appointment of the petitioner on compassionate ground and shall not reject it on the ground nos.1 and 2 which were spelt out in the impugned order dated 16.2.2015.
6. Writ Petition accordingly disposed of. No costs.

(V.K. JADHAV, J.)

(S V GANGAPURWALA, J.)

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aaa/-