

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6873 OF 2013

KANTILAL NAMDEO ADSURE
VERSUS
MAHATMA PHULE KRISHI VIDYAPEETH AND ANOTHER

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Advocate for Petitioner : Shri Barde Parag Vijay
Advocate for Respondent 1 : Shri Nawandar Manish

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CORAM : RAVINDRA V. GHUGE, J.
Dated: December 21, 2015
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PER COURT :-

1. The petitioner is aggrieved by the judgment and order dated 8.3.2013, delivered by the Industrial Court by which, Complaint (ULP) No.54 of 2009, filed by the petitioner along with respondent No.2 - Union has been dismissed.

2. Grievance is that though the petitioner's mother, a Class IV employee, died while being in employment, the respondent No.1 University has not entertained the claim of the petitioner. The Industrial Court has dismissed the complaint only on the ground that the Government Resolution 22.8.2005 which provides for compassionate appointment, has imposed an age criteria, by which any candidate beyond 40 years, cannot be enlisted and cannot be held eligible for appointment on compassionate basis.

3. Shri Barde strenuously submits that after his mother's demise on 11.1.2006, he moved an application on 11.10.2006, seeking appointment on compassionate basis. His application was entertained and he was enlisted

in the wait list. He submits that on 12.6.2009, the name of the petitioner was struck off from the list since he had attained 40 years of age. He submits that the G.R. dated 22.8.2005 has subsequently been amended vide G.R. dated 17.4.2010, by which ceiling on age has been raised to 45 years. He, therefore, submits that the impugned judgment is erroneous and the complaint has been dismissed without considering the G.R. dated 17.4.2010.

4. Shri Nawandar, learned Advocate on behalf of respondent No.1 / University has supported the impugned judgment. He submits that the petitioner is born on 1.6.1967. As on date, he is 48 years' old. Even on the day of the impugned judgment, he had crossed 45 years. As such, even by virtue of the G.R. dated 17.4.2010, the Complaint deserves to be dismissed as the petitioner was 45 years and 9 months' old.

5. He further submits that one person from the family of the petitioner was already appointed as an outcome of the family being project affected. It's land was acquired for the establishment of the respondent / University.

6. I have considered the submissions of the learned Advocates.

7. The Full Bench of this Court in the case of Rajendra Pandurang Pagare Vs. State of Maharashtra [2009 (5) ALL MR 830], has concluded that even in the case of project affected persons, all those persons, eligible and enlisted for such appointment, shall have to compete between themselves in their categories.

8. There was nothing before the Industrial Court to indicate that the claim of the petitioner was bye-passed and other candidates, either enlisted after him or from any other category were granted preference over the claim of the petitioner. It is not in dispute that he was enlisted in the list of eligible candidates, but his turn for appointment did not arrive.

9. Considering the effect of the G.R. dated 22.8.2005, referred to by the Industrial Court, as well as the subsequent G.R. dated 17.4.2010, the petitioner was 45 years and 9 months old on the date of the judgment of the Industrial Court.

10. In the light of the above, I do not find that the impugned judgment could be termed as being perverse or erroneous.

11. This petition being devoid of merits is, therefore, dismissed.

(RAVINDRA V. GHUGE, J.)

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