

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

WRIT PETITION NO. 5266 OF 2014

Abdul Sattar Abdul Razzak,
Age – 34 years, Occu. - Sakhala Plots,
Lohgaon Road, Near Zakir Hussain
Primary School, Parbhani. .. Petitioner

Versus

- 1) The Registrar,
Vasantrao Naik Marathwad Krushi
Vidyapith, Vasmat Road, Parbhani
- 2) The State of Maharashtra
- 3) Senior Scientist, Hybrid Go – paidas
research Centre, V. N. M. K. Vidyapith,
Parbhani .. Respondents

Shri Vivek G. Pingle, Advocate for the Petitioner
Shri Eknath Sawant, Advocate for the Respondent Nos. 1 and 3
Smt. Y. M. Kshirsagar, A. G. P. for the Respondent No. 2

**CORAM : S. V. GANGAPURWALA AND
V. L. ACHLIYA, JJ.**

DATE : 12TH FEBRUARY, 2015.

ORAL JUDGMENT : *(Per S. V. Gangapurwala, J.)*

- 1) Rule.
- 2) Rule returnable forthwith. With the consent of the learned counsel for the parties taken up for final hearing.
- 3) The learned counsel for the petitioner submits that, the mother of the petitioner died on 04th July, 2007 while in service with respondent No. 1. According to the learned counsel petitioner approached in the year, 2011 for getting the benefit, however, the petitioner was directed to bring the succession certificate. The petitioner applied for the same. The Court issued the said certificate in favour of petitioner. The petitioner again applied to the University on 09th May, 2011 for appointment on compassionate ground. The Committee considered the case of the petitioner and directed that, the name of the petitioner should be inserted in the wait list with effect from the date of his subsequent application dated 09th May, 2011. However the same is not considered by the authority and the name of the petitioner is not inserted, on the contrary vide letter dated 03rd May, 2014 the respondent No. 1 had intimated petitioner that as the claim of petitioner is not within limitation the same can not be considered. The learned counsel submits that, the Government Resolution

dated 05th February, 2010 would not be applicable.

4) Mr. Sawant the learned counsel for the respondent No. 1 submits that, in view of Government Resolution dated 05th February, 2010, application for appointment on compassionate ground has to be made within one (1) year. In the present case the application is made after four (4) years, as such has been rightly rejected.

5) We have considered the submissions canvassed by the learned counsel for the respective parties. It is fact that, mother of the petitioner was employee of respondent No. 1 and died on 04th July, 2007 while in service. The respondents did not dispute that, the petitioner is entitled to seek appointment on compassionate ground, however, the only contention is that, the application for appointment on compassionate ground is not within limitation.

6) It would be seen that, the mother of the petitioner died in July, 2007. The Government Resolution relied by the respondent is dated 05th February, 2010. At the time when the mother of the petitioner had died limitation period for making an application for appointment on compassionate ground was five (5) years. It is also fact that, the petitioner had approached the

respondent No. 1 in the year, 2010, however, was directed to bring the succession certificate. This fact is also discussed by the Committee while passing the resolution. Even assuming that, one (1) year limitation would apply from the date of Government Resolution dated 05th February, 2010, then the petitioner had already approached the respondent No. 1 in the year, 2010 but was asked to bring the succession certificate and the time was lost in the same.

7) Considering this aspect of the matter we are inclined to entertain the petition and consider the case of the petitioner. In the result the impugned order is quashed and set aside. The respondent shall place the petitioner in the seniority list of the persons claiming appointment on compassionate ground, however, from the date the petitioner subsequently had made application that is 09th May, 2011.

8) Rule is accordingly made absolute. No costs.

[V. L. ACHLIYA, J.]

[S. V. GANGAPURWALA, J.]