

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

...

REVIEW APPLICATION(ST)NO.21001/2015

IN

WRIT PETITION NO.651/ 2014

THE STATE OF MAHARASHTRA AND OTHERS

VERSUS

HEMANTKUMAR SHASHIKANT DESALE AND OTHERS

...

Mr. D. V. Tele, AGP for the applicant-State.

Mr. P. B. Patil, Advocate for respondent No.1

Mr. S. B. Yawalkar, Advocate for respondents 2 and 3.

**CORAM : S. V. GANGAPURWALA, &
V. K. JADHAV, JJ.**

DATE : 29th September, 2015

PER COURT :

1. Mr. Tele, the learned AGP submits that while order dated 11.11.2014 was passed in writ petition 651/2014, the review applicant, inadvertently, could not bring it to the notice of the Court, the Government Resolution dated 2nd August, 2005. Clause 2 of the said Government resolution prohibits appointment on compassionate ground of the wards of those employees who have died after retirement. This Court, in the said order under review, had directed the present review applicant and present respondents 2 and 3 to consider Government Resolution dated 28.01.2000.

2. Mr. Patil, learned counsel for respondent No.1 submits that in fact the Government Resolution dated 22.08.2005 is also subject matter in Writ Petition No. 7854/2015. In the said writ petition, the present applicant has filed civil application raising challenge to the said Government Resolution. According to the learned counsel, the said Government Resolution is not in consonance with the scheme approved and framed by the Government, considering the beneficial nature of the said scheme.

3. The father of the writ petitioner had died after retirement from the service. The effect of the Government Resolution dated 27th August, 2005 will have to be considered in the claim of the writ petitioner for appointment on compassionate ground. It appears that the Government Resolution dated 22.08.2005 was holding the field, however the said fact was not brought to the notice of this Court. Even the writ petitioner has filed an application in the subsequent writ petition to challenge the said Government Resolution.

4. In light of the above, good ground for review

has been made out. Opportunity will have to be given to both the parties to adduce argument on the said aspect. In light of that, the order dated 11th November, 2014 passed in Writ Petition No. 651 of 2014 is reviewed and recalled.

5. Writ Petition No. 651 of 2014 is restored to its original position.

6. The parties may take steps to club Writ Petition No. 651/2014 with Writ Petition No. 7854/2015.

7. Review petition is accordingly allowed. No costs.

(V. K. JADHAV, J.)

(S. V. GANGAPURWALA, J.)

JPC