

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.2679 OF 2014

[Juber Ahmed Khan .vs. State of Maharashtra and others]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri M.R. Pillai, counsel for the petitioner,
Shri D.P. Thakare, AGP for respondent nos.1 and 2,
Shri M.I. Dhatri, counsel for respondent no.3.

CORAM : SMT. VASANTI A. NAIK AND
A.M. BADAR, JJ.

DATED : MARCH 31, 2015.

By this petition, the petitioner seeks a direction to the respondents to grant appointment to the petitioner on a Class-III post on compassionate ground.

The father of the petitioner was working with the respondent-Municipal Council and he expired on 29.8.2005 while in service. The petitioner applied to the Municipal Council for appointment on compassionate ground. It is the case of the petitioner that the Municipal Council resolved to appoint the petitioner on compassionate ground in the year 2005. It is stated on behalf of the petitioner that though it was necessary for the Municipal Council to send the proposal of the petitioner for appointment on compassionate ground to the Regional Director, Municipal Administration, Amravati Division, Amravati immediately, the Municipal Council did not send the proposal to the concerned authority. The petitioner has, therefore, approached this court seeking the aforesaid relief. The learned counsel for the petitioner has relied on an unreported judgment dated 22.11.2013 in Writ Petition No.5927/2012 [Smt. Triveni wd/o Kisanrao Wankhede .vs. State of Maharashtra and others] to seek the appointment.

Shri Dhatriak, the learned counsel for the respondent no.3, opposes the prayer made in the petition and states that the petition suffers from laches. It is stated that the father of the petitioner expired in the year 2005 and the present petition is filed nearly 10 years later i.e. on 12.3.2014. It is stated that if the petitioner was of the view that the Municipal Council had decided to appoint the petitioner on compassionate ground in the year 2005, the petitioner ought to have approached this court within a reasonable time. It is stated that mere making of representations for a period of nearly 10 years would not extend the period of limitation.

On hearing the learned counsel for the parties, it appears that the relief sought for by the petitioner cannot be granted. The petition suffers from laches. The father of the petitioner expired in the year 2005 and the present petition is filed on 12.3.2014 seeking compassionate appointment in view of the death of the father of the petitioner in the year 2005. If at all, the Municipal Council had resolved to appoint the petitioner on compassionate ground in the year 2005 and the Municipal Council had not send the proposal of the petitioner to the Regional Director, Municipal Administration, Amravati Division, Amravati, the petitioner ought to have approached this court within a reasonable time. The petitioner should have filed the writ petition in the year 2005 or 2006 itself, however, the writ petition is filed on 12.3.2014. The object of granting appointment on compassionate ground stands frustrated in this case, as the object is to grant succour to the family members of the sole bread winner, who dies in harness. If the petitioner is able to survive for nearly 10 years from the death of his father, there is no question of appointing the petitioner on compassionate ground. It is a well settled position of law that making of successive representations to the authorities concerned for seeking the relief is inconsequential while considering 'sufficient cause'. The making of successive representations cannot stop the period of limitation. It would be necessary to refer to the judgments reported in 1995 Supp (4) SCC 593 (Administrator of Union Territory of Daman and Diu and others), (1997) 11 SCC 13 (Jai Dev Gupta .vs. State of H.P. and another, (2009) 3 SCC 281 (Yunus (Baboobhai) A.

Hamid Padvekar .vs. State of Maharashtra and through its Secretary and others) and (2006) 4 SCC 322 (Karnataka Power Corporation Limited through its Chairman and Managing Director) and another .vs. K. Thangappan and another) in this regard. The appointment on compassionate ground cannot be claimed as of a right and in the instant case, since the petition suffers from laches, the claim of the petitioner for appointment on compassionate ground cannot be considered. The unreported judgment dated 22.11.2013 in Writ Petition No.5927/2012, referred to hereinabove, cannot be made applicable to the facts of the case, specially, in view of the judgments of the Hon'ble Supreme Court referred to hereinabove.

In the result, the writ petition fails and is dismissed with no order as to costs.

JUDGE

JUDGE

Gulande