

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

WRIT PETITION NO.2879/2014

Nanda wd/o Ravindra Nitnaware and another

...Versus...

State of Maharashtra, Through Secretary Department of Home Mantralaya,
Mumbai-32 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 S.D. Chopde, Advocate for petitioners
Shri S.M. Bhagde, AGP for respondent nos.1 to 3

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

DATE : 31.03.2015

By this petition, the petitioners seek a direction to the respondents – authorities to give compassionate appointment either to the petitioner no.1 or to the petitioner no.2.

The husband of the petitioner no.1 and the father of the petitioner no.2, Shri Ravindra Nitnaware expired on 10.9.2005 while in service due to health problems. The petitioner no.1 applied for appointment on compassionate ground and the name of the petitioner no.1 was placed in the waiting list. The name of the petitioner no.1 was, however, removed from the waiting list after she attained the age of 40 years on the ground that the name of the aspirant seeking compassionate appointment could have been retained in the waiting list only till the aspirant attains the age of 40 years. The petitioners are aggrieved by the removal of the name of the petitioner no.1 from the waiting list and the petitioners seek compassionate appointment either for the petitioner no.1 or for the petitioner no.2.

On hearing the learned Counsel for the parties and on a perusal of the Government Resolution dated 6.12.2010, it appears that the name of the petitioner no.1 could not have been removed from the waiting list after she attained the age of 40 years. As per the Government Resolution, the name of the aspirant can be retained in the waiting list till he or she attains the age of 45 years and the name of the petitioner no.1 could not have been removed from the waiting list. Though the respondents have committed an illegality in removing the name of the petitioner no.1 from the waiting list, it cannot be said that the respondents have committed an illegality in refusing to appoint the petitioner no.2. Since the petitioner no.1 had applied for compassionate appointment and since her name was included in the waiting list, the respondents were not obliged to appoint the petitioner no.2 on compassionate ground.

Hence, for the reasons aforesaid, the writ petition is partly allowed. The respondents are directed to include the name of the petitioner no.1 in the waiting list as per its original position and grant employment to the petitioner no.1, if she is entitled to appointment as per her turn. The name of the petitioner no.1 cannot be removed from the waiting list till she attains the age of 45 years. The claim of the petitioner no.2 for compassionate appointment is, however, rejected.

With the aforesaid observations and directions, the writ petition is disposed of with no order as to costs.

JUDGE

JUDGE