

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 7173/2014

(VIKRANT HARIBHAU KALE **VERSUS** DY. DIRECTOR OF EDUCATION, AMRAVATI & OTHERS)

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

Court's or Judge's orders

Shri K.S. Narwade, counsel for the petitioner.
 Shri K.L. Dharmadhikari, A.G.P. for the R-1 & 2.
 Shri D.G. Patil, counsel for the R-3 & 4.

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

DATE : MARCH 17, 2015.

By this petition, the petitioner seeks a direction to the respondent nos.2 and 3 to appoint the petitioner on the post of Junior Clerk on compassionate ground.

The father of the petitioner was working as a Headmaster in the school run and administered by the respondent no.3-Society. The father of the petitioner expired while in service on 24.10.2012. The petitioner applied for appointment on compassionate ground due to the sudden death of his father. Despite the application, the request of the petitioner was not acceded to and the petitioner sent several reminders . Since the claim of the petitioner was not considered and the petitioner was not appointed on compassionate ground, the present petition is filed.

On hearing the learned counsel for the parties and on a perusal of the affidavit-in-reply filed on behalf of the respondent nos.3 and 4, it appears that a direction cannot be issued to the respondent nos.3 and 4 to appoint the petitioner on compassionate ground. It is well settled that a

compassionate appointment cannot be claimed as a matter of right. The respondent nos.3 and 4 have rightly exercised the discretion in terms of the Government Resolution dated 31.12.2002 while denying compassionate appointment to the petitioner. After the death of the petitioner's father, the mother of the petitioner started receiving family pension of Rs.23,000/- per month from January-2013. On the death of the father of the petitioner, the family received a substantial amount of Rs.17,00,000/- (Rupees Seventeen Lacs) towards retiral benefits. The petitioner did not disclose these facts in the petition though some of the facts are mentioned in the application made by the petitioner to the respondent nos.3 and 4. The object of granting compassionate appoint is to provide succour to the dependents of the bread winner, who dies in harness. The object of compassionate appointment is to provide some financial help to the family members of the bread winner who would be literally on the streets if compassionate appointment is refused. It could be granted in cases where the retiral benefits received by an employee who dies in harness are very meager and are not sufficient to satisfy the basic needs of the members of the family. However, such is not the case here. The mother of the petitioner has started receiving a sum of Rs.23,000/- per month from January-2013 towards family pension and the family has received a sum of Rs.17,00,000/-. There are several Class-III and Class-IV employees who receive less than an amount of Rs.17,00,000/- towards retiral benefits even after completing their service on superannuation. We do not find that the respondent nos.3 and 4 have exercised the discretion in an arbitrary and capricious manner while

rejecting the claim of the petitioner for appointment on compassionate ground. In fact, the respondent nos.3 and 4 have rightly considered Clause 7(b) in the annexure to the Government Resolution dated 31.12.2002 while denying compassionate appointment to the petitioner. The judgments reported in **2011(5) Mh.L.J. 290** (*Aparna Narendra Zambre & Another Versus Assistant Superintendent Engineer, Sangli & Others*) and **2003(1) Mh.L.J. 331** (*Sudhir Sakharam Joshi Versus Bank of Maharashtra & Another*) and relied on by the counsel for the petitioner cannot be made applicable to the facts of this case.

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

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