

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

WRIT PETITION NO. 980 OF 2016

Rahul Madhav Sonkamble

...PETITIONER

versus

The Union of India and others

...RESPONDENTS

.....
Mr. R.D. Reddy , Advocate for petitioner

Mrs. Deepali Jape, Advocate Standing Counsel for respondents No.1 to 4

.....

**CORAM : R.M. BORDE AND
K.K. SONAWANE, JJ.**

DATED : 25th OCTOBER, 2016.

Order :-

1. Petitioner is praying for issuance of directions to the respondents to consider the claim of the petitioner for employment on compassionate ground. Father of the petitioner, who was in employment of respondents died in the year 1999. The petitioner tendered application seeking employment on compassionate ground in the year 2010. Application was considered and the matter was referred to the Higher Authorities for granting condonation in respect of prescription under rules relating to 'height' and measurement of 'chest'. Condonation sought in respect of 'height' is 12 c.m. and in respect of 'chest' by 4 c.m. The authorities, who are authorized to consider the application and grant condonation, did not consider the request made by the petitioner favourably and held that petitioner is not suitable. Reliance is placed on the Standing Order No. 5 of 2001 in respect of compassionate appointment issued by respondent - Department. Said order prescribes limit for granting relaxation in respect of 'height' by 2

c.m. and in respect of 'chest' by 2 cm. Relaxation sought in case of petitioner is far more than prescribed limit. As such, the application has been turned down. Even otherwise belated claim of the petitioner for issuance of directions for making appointment on compassionate ground does not deserve any consideration.

2. It is settled law that compassionate employment is given solely on humanitarian grounds with the sole object to provide immediate relief to the employee's family to tide over the sudden financial crises and cannot be claimed as a matter of right. Appointment based solely on descent is inimical to our constitutional scheme, and ordinarily public employment must be strictly on the basis of open invitation of applications and comparative merit, in consonance with Articles 14 and 16 of the Constitution of India. No other mode of appointment is permissible. Nevertheless, the concept of compassionate appointment has been recognised as an exception to the general rule, carved out in the interest of justice, in certain exigencies by way of a policy of an employer, which partakes the character of the service rules. That being so, it needs little emphasis that the scheme or the policy, as the case may be, is binding both on the employer and the employee. Being an exception, the scheme has to be strictly construed and confined only to the purpose it seeks to achieve (**Bhawani Prasad Sonkar Vs. Union of India**) (2011) 4 SCC 209. Similar proposition has been laid down by the Honourable Supreme Court in the matter of **Santosh Kumar Dubey Vs. State of U.P.** reported in (2009)6 SCC 481 and **State of Manipur Vs. Mohd. Rajaodin** reported in (2003)7 SCC 511.

3. In view of above, the petition does not deserve favourable consideration. Writ petition accordingly stands rejected.

[K. K. SONAWANE, J.]

[R.M. BORDE, J.]

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