

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE, BENCH AT AURANGABAD

WRIT PETITION NO.3646 OF 2005

**Smt.Sakhubai Laxmanrao Sakle Vs. General Manager (P & I.R.)
M.S.R.T.Corporation, Central Office, Wahatuk Bhavan, Bombay
and another.**

WITH**C.A.NO.5435 OF 2009****IN****W.P.NO.3646 OF 2005.**

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders
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Mr.R.L.Chintalwar, advocate for the Petitioner absent.

Mrs.R.D.Reddy, advocate for Respondent Nos.1 and 2.

**CORAM : S.V.GANGAPURWALA AND
N.W.SAMBRE, JJ.**

Date : 15.09.2016.

PER COURT :

1. Heard.

2. Mr.Chintalwar, learned counsel states that the husband of the petitioner died while in service. The husband of the petitioner was illegally terminated. The petitioner assailed the said order of termination in appeal. The appeal is allowed. During the pendency of the appeal, the husband of the petitioner died on 9.3.2003. The petitioner has filed Civil Application for giving appointment on compassionate ground to her son.

3. Mrs.Reddy, learned counsel for the Respondents submits that the husband of the petitioner was not in service at the time of his death. He was dismissed from service. He died on 9.3.2003 and the appeal of the petitioner's husband against the order of dismissal came to be allowed on 5.7.2003. As such on the date of death, the husband of the petitioner was not in service. As such the Circular relied by the petitioner disentitles the petitioner or her son from claiming relief of compassionate appointment.

4. We have considered the submissions. The fact that the appeal of the petitioner's husband came to be allowed by setting aside the order of dismissal itself would be the testimony of the fact that the petitioner's husband was in service at least notionally. As such it will have to be considered that the husband of the petitioner died during his service. The petitioner has become age barred for seeking appointment on compassionate ground.

5. It is submitted that application is made seeking compassionate appointment of the son of the petitioner.

6. In case such an application is pending with the Respondent No.2 then the Respondent No.2 shall take decision upon the application filed by the petitioner seeking appointment on compassionate ground for son on its own merits in accordance with law and policy of Respondent No.2. The said decision be taken expeditiously, preferably within nine (9) months from today.

7. Rule accordingly disposed of. No costs.
8. In view of disposal of Writ Petition, the Civil Application also stands disposed of.

(N . W . SAMBRE , J .)

(S . V . GANGAPURWALA , J .)

Dt.15.09.2016.
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