

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

WRIT PETITION NO.3721 OF 2016

Ganesh s/o Rayalu Pawar,
Age: 35 Yrs., occu. Unemployed,
R/o Sawargaon Tanda, Tq.Kinwat,
District Nanded.

- PETITIONER

VERSUS

- 1) The State of Maharashtra
Through its Secretary,
Village Development & Water
Conservation Department,
Mantralaya, Mumbai-32.
- 2) The Chief Executive Officer,
Zilla Parishad, nanded,
District Nanded.
- 3) Deputy Chief Executive Officer,
Zilla Parishad, Nanded,
District Nanded.
- 4) Sub-Divisional Officer,
Water Supply Department
Sub-Division, Kinwat,
District Nanded.

- RESPONDENTS

Mr. G.J.Karne, Advocate for Petitioner/s
Mr. V.H.Dighe, AGP for State.
Ms. Yogita M.Kshirsagar, Adv. For Resp.Nos. 2 to 4.

**CORAM : S.S.SHINDE &
P.R.BORA,JJ.**

DATE : 26th July,2016.

ORAL JUDGMENT (PER:- S.S.SHINDE,J.)

- 1) Heard. Rule. Rule made returnable

forthwith with the consent of the learned Counsel for petitioner and learned Counsel appearing for Respondent Nos. 2 and 3. With their able assistance, perused the pleadings and grounds taken therein, annexures thereto and reply filed by Respondent Nos.2 to 4.

2) Upon perusal of the pleadings set out in para 7 of the petition, the petitioner has made a categorical statement that in the years 2001, 2002 and 2003, the petitioner had approached Respondent Nos.3 and 4 with applications for seeking employment on compassionate ground, however, they have refused to accept the said applications on the ground that father of the petitioner was Daily Wager and was not a permanent employee and, therefore, the prayer of the petitioner for appointment on compassionate ground cannot be considered.

3) Upon perusal of the reply filed by Respondent Nos.2 and 3, there is no denial to the assertions/contentions raised by the petitioner in para 7 of the writ petition. Admittedly, the services of father of the petitioner were regularized

in the year 2007 by the respondents and, therefore, prior to it, the applications submitted by the petitioner seeking compassionate appointment, could not have been considered by the respondents and, therefore, the stand taken by the respondents that the petitioner's application was not within the prescribed period of five years from the date of death of petitioner's father, cannot be countenanced.

4) Upon further considering the case in its entirety, it appears that the petitioner has made constant endeavour to file the applications from the year 2001 onwards till 2009. As already observed, there is no reply to the assertions of the petitioner's contention that the petitioner went on filing applications after applications from the year 2001 and Respondent Nos. 3 and 4 refused to accept the said applications on the ground that petitioner's father was not working on regular basis when he died. Therefore, in the peculiar facts and circumstances of this case, in our opinion, ends of justice would be met, in case the respondents are directed to consider the claim of the petitioner for appointment on compassionate ground on merits, without raising the

ground of limitation. in that view of the matter, the impugned communication dated 29th October, 2009 issued by Chief Executive Officer, Zilla Parishad, Nanded, is quashed and set aside. The Chief Executive Officer is directed to consider the application/s of the petitioner for appointment on compassionate ground, on its own merits, keeping in view the relevant procedure/Rules, as expeditiously as possible and preferably within a period of eight weeks from today and communicate the said decision to the petitioner.

5) We make it clear that we have not expressed any opinion on merits of the contentions raised by the petitioner for seeking appointment on compassionate ground and we have considered only the point of limitation in filing the applications by the petitioner.

6) The Writ Petition stands disposed of on above terms with no order as to costs.

sd/-
(P.R.BORA)
JUDGE

sd/-
(S.S.SHINDE)
JUDGE

bdv/