

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4924 OF 2016

Ankush s/o Sheshrao Boinwad,
Age : 35 years, Occu. Nil,
R/o Gayatri Lane, Mukhed,
Tq. Mukhed, District Nanded

PETITIONER

VERSUS

1. The State of Maharashtra,
through Director of Higher Education,
Maharashtra State, Central Building,
Pune – 411 001
2. The Joint Director,
Higher Education,
Nanded Division,
Nanded, Dist. Nanded
3. The Chairman/Secretary,
Virbhadra Shikshan Sanstha,
Mukhed, Tq. Mukhed,
District Nanded
4. The Principal,
Virbhadra Shikshan Sanstha's
Mahatma Jyotiba Phule College,
Mukhed, Tq. Mukhed,
District Nanded

RESPONDENTS

Mr. P.B. Patil, Advocate for the Petitioner
Mrs. M.A. Deshpande, Additional Govt. Pleader
for respondent Nos. 1 and 2
Mr. V.D. Gunale, Advocate for respondent Nos. 3 and 4

CORAM : S.S. SHINDE AND
SANGITRAO S. PATIL, JJ.

DATE : 5th AUGUST, 2016

JUDGMENT (PER : SANGITRAO S. PATIL, J.) :

Rule. Rule made returnable forthwith. With the consent of the learned counsel for the parties, heard finally.

2. The petitioner has sought the directions against the respondents to consider his proposal for appointment on compassionate ground to any suitable post as per his qualification.

3. On the basis of the averments made in the petition and affidavit-in-rejoinder, the learned counsel for the petitioner submits that the father of the petitioner, namely, Shesherao Sambhaji Boinwad was serving as a Laboratory Assistant in respondent No. 4 college. He died on 16th June, 2015 in harness. The petitioner applied on 27th September, 2015 for his appointment on compassionate ground in the college run by respondent No. 3 to any suitable post considering his educational qualification as B.Sc. (Horticulture). Accordingly, respondent Nos. 3 and 4 sent a proposal to respondent No.2 – the Joint Director of Higher

Education, Nanded Division, Nanded for appointment of the petitioner on compassionate ground. In response to the letter dated 3rd October, 2015, issued by respondent No. 2, the petitioner furnished the necessary information in the prescribed proforma to respondent No.2. However, respondent No. 2 did not take any action on that proposal despite repeated reminder letters being sent by the petitioner. Hence, according to the learned counsel for the petitioner, necessary directions are required to be given to respondent Nos. 1 and 2 for deciding the proposal for appointment of the petitioner on compassionate ground and for issuing appointment order as per the entitlement of the petitioner.

4. Respondent Nos. 3 and 4 opposed the petition by filing reply. According to them, the petitioner is not the only male issue of the deceased Shesherao. The deceased Shesherao left behind him his widow namely Kamalbai and two sons i.e. the petitioner and one Vyankat. The said Vyankat is serving as an Assistant Teacher in the Zilla Parishad school at Mahagaon, District Yeotmal. His wife namely Mansi is also serving as an Assistant Teacher in the Zilla Parishad school.

The mother of the petitioner is receiving family pension of Rs. 18,000/- per month. The family of the petitioner received the amount of gratuity, provident fund and leave encashment of the deceased Shesherao to the tune of Rs. 9,00,000/-. There is agricultural land admeasuring about ten acres belonging to the family members of the deceased Shesherao. They are getting sufficient income from that land. In the above circumstances, nobody can be said to be depending on the income of the petitioner. The petitioner himself is having sufficient income from his agricultural land. Moreover, he is doing the job in a company and earning therefrom. Considering this financial condition of the family of the deceased Shesherao, it is stated that the petitioner is not entitled to get appointment on compassionate ground.

5. The learned A.G.P. and the learned counsel for respondent Nos. 3 and 4 submit that the appointment on compassionate ground is not a legal right. Such appointment is meant for providing immediate help to the family of the deceased employee who suffers from financial crisis and finds it difficult to survive for

sufficient income. According to them, in the present case, no such situation is existing. Therefore, the proposal for appointment of the petitioner on compassionate ground cannot be considered. They submit that the petition is devoid of any substance. It is liable to be dismissed.

6. It is well settled that the 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 crisis and cannot be claimed as a matter of right. The compassionate employment cannot be granted as a matter of course by way of largesse irrespective of the financial condition of the deceased employee's family at the time of his death. In the case at hand, as seen from the 7/12 extracts produced on record, the petitioner himself possesses agricultural land admeasuring 1 H 16 R out of Block Nos. 40 and 59 at village Dhamangaon. He is doing job in a company and earning therefrom. The deceased Shesherao was possessing 1 H 95 R of agricultural land out of Block Nos. 62 and 39 at village Dhamangaon. The mother of the petitioner

is receiving family pension of Rs. 18,000/- per month. The brother of the petitioner namely Vyankat and his wife namely Mansi are serving as Assistant Teachers in the Zilla Parishad schools. They are getting substantive income from their jobs. In the circumstances, the family of the deceased Shesherao cannot be said to have suffered sudden financial crisis on account of his death. The financial condition of the family of the deceased Shesherao is quite sound.

7. As per clause 6 (b) of the Scheme for appointment on compassionate ground, published by the Higher and Technical Education Department, Government of Maharashtra, vide Govt. Resolution dated 26th May, 1998, it has been mentioned that while appointing a person on compassionate ground, the purpose behind the said Scheme to extend immediate help to tide over the sudden financial crisis, has to be kept in mind. The appointing officer has been cautioned to take utmost care while deciding the financial condition of the family of the deceased employee. In view of this clause, respondent No.2 has rightly found that the financial condition of the family of the deceased Shesherao being sound enough

to overcome the financial problems, if any, faced by them after the demise of Shesherao, the petitioner is not entitled to get appointment on compassionate ground. In this view of the matter, we do not find any substance in the claim of the petitioner for appointment on compassionate ground. The writ petition is devoid of any substance. It is liable to be dismissed. Hence, the following order :-

- (i) The Writ Petition is dismissed.
- (ii) Rule is discharged accordingly.
- (iii) The parties shall bear their own costs.

[SANGITRAO S. PATIL]
JUDGE

[S.S. SHINDE]
JUDGE