

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

WRIT PETITION NO. 5268 OF 2014

Shakeel Ahmed s/o Sk. Jamil Ahmed

.. PETITIONER

VERSUS

The State of Maharashtra
& others

.. RESPONDENTS

Mr. B.N. Patil, advocate for petitioner.

Mr. S.B. Pulkundwar, AGP for the State.

Mr. Mukul Kulkarni, advocate holding for Mr. N.B. Suryawanshi, advocate
for respondents 2 to 5.

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

DATE : 23rd AUGUST, 2016.

PER COURT :

Application tendered by petitioner for making appointment on
compassionate ground has been turned down by High Court by referring to
the guideline no. 7(c) which reads thus :

7. Eligibility

The scheme shall apply only if :

(c) The total monthly income of such family is less
than the total emoluments of 'Group C' employee of
the lowest rank.

2. It is pointed out that father of petitioner was in employment and was
serving as Superintendent of the Court of Additional District & Sessions
Judge, Biloli. On his demise, his wife i.e. mother of the petitioner was held
eligible to receive pension. The mother of petitioner is receiving monthly
emoluments of Rs. 11,495/- towards provisional pension plus dearness

allowance at 80%. Thus total monthly emoluments receivable by mother of petitioner are to the extent of Rs. 20,691/-. As on today dearness allowance is being paid at 125% on basic pension. The pay scale prescribed for 'Group C' employees of the lowest rank in judicial service (Junior Clerk) are to the extent of Rs.14,837/-. Since mother of petitioner is getting emoluments far more than the employee of the lowest rank of 'Group C' of the judicial services, there is no error on the part of the High Court in turning down the request made by petitioner.

3. 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 crisis 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 V. Union of India*, **(2011) 4 SCC 209**.) Similar

preposition has been laid down by the Hon'ble Supreme Court in the matter of Santosh Kumar Dubey V. State of U.P. Reported in **(2009) 6 SCC 481** and State of Manipur V. Mohd. Rajaodin reported in **(2003) 7 SCC 511**.

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

(K. K. SONAWANE)
JUDGE

(R. M. BORDE)
JUDGE

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