

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

WRIT PETITION NO.6993 OF 2014

SALIM AJMAL HANNURE. ... PETITIONER.

VERSUS

**THE STATE OF MAHARASHTRA
AND OTHERS. ... RESPONDENTS.**

...

Advocate for Petitioner: Mr.Gaware N.V.

AGP for Respondents/State: Mr.S.G.

Karlekar.

Advocate for Respondent 3: Mr.A.S. More.

...

**CORAM : S.S.SHINDE &
SANGITRAO S.PATIL, JJ.**

Dated: APRIL 13, 2016.

ORAL ORDER:

This petition takes exception to the *interse* communication dated 15th October, 2013 addressed by the Collector, Osmanabad to the Chief Officer, Municipal Council, Paranda and also a letter dated 12th May, 2014 written by the Chief Officer, Municipal Council, Paranda to the petitioner.

2 The learned Counsel appearing for the petitioner invited our attention to various documents placed on record including resolution dated 28th June, 2013 passed by the Municipal Council and submits that by the said resolution, the petitioner's father was appointed as a class-IV employee in the pay scale of Rs.260-10-300-15-420-Extn-15-495. Therefore, according to the learned Counsel for the petitioner, his father was a permanent employee of the respondent Municipal Council from 1st July, 1992. He further submits that the petitioner's father was granted all the benefits including pay scale as per fourth pay commission, etc. The sum and substance of the argument of the learned Counsel for the petitioner is that when the petitioner's father died during the course of employment with the respondent – Municipal Council, he was holding the post of

a Clerk and, therefore, the respondents should have considered claim of the petitioner for appointment on compassionate ground in view of the Government Policy laid down from time to time.

3 The learned Counsel for the respondent – Municipal Council and the learned AGP appearing for the respondents / State, relying upon the Clause 48(a),(b), and (c) of the Government Resolution dated 1st August, 2006 (Exh.I at page 69 of the compilation of the petition) and submit that since appointment of the petitioner's father initially was on daily wages, in view of the aforesaid clause, the petitioner being legal representative of the employee who was appointed initially on daily wages, is not entitled for appointment on compassionate ground.

4 We have given careful consideration to the submissions of the learned Counsel for the parties. With their able assistance, perused the pleadings in the petition, annexures thereto and in particular, Resolution passed by the Municipal Council, by which the petitioner's father was appointed as a Class-IV employee in the pay scale of Rs.260-10-300-15-420-Extn-15-495. The said resolution was passed on 1st July, 1992. It is not in dispute that thereafter, the petitioner's father rendered services as a permanent employee of the respondent Municipal Council and he was granted further benefits which are available to an employee appointed on regular basis. Therefore, admittedly, the petitioner's father died during the course of his employment with the respondent - municipal council and at the relevant time, he was holding the post of a clerk in regular pay scale.

5 In that view of the matter, in our considered opinion, the reasons assigned by the District Collector, Osmanabad while rejecting claim of the petitioner are not sustainable. The petitioner's father was in regular employment with the respondent - Municipal Council, working as a clerk and, therefore, the impugned communication stands quashed and set aside. The respondents are directed to consider the case of the petitioner on its own merits, without raising the ground of dis-entitlement of the petitioner for appointment on compassionate ground as his father was initially appointed on daily wages. The respondents to consider the case of the petitioner, on merits and taking in view the Government Policy and after verifying the qualifications possessed by the petitioner, as expeditiously as possible; however, within a period of six

weeks from today and communicate the decision so taken to the petitioner.

Needless to observe that if the respondents wish to hear the petitioner, they can do so.

Petition stands disposed of on above terms.

(SANGITRAO S.PATIL, J) (S.S. SHINDE, J)

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