

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.10957 OF 2014

Gajanan S/o Motiram Indulwad

Petitioner

Versus

The State of Maharashtra and another

Respondents

Mr.Irfan D. Maniyar advocate for the petitioner

Mr.V.S. Badakh, Assistant Government Pleader for Respondent No.1

Mr. S.B. Pulkundwar advocate for respondent No.2

CORAM : R.M. BORDE, &

P.R. BORA, JJ

Dated : 14th MARCH, 2016.

PER COURT :-

1 The petitioner is praying for issuance of directions to respondents to consider his claim for appointment on compassionate grounds in Class IV category.

2 It is claimed that, the father of the petitioner was in employment of Zillha Parishad and died in the year 2001 due to heart attack. An application was tendered by the petitioner, seeking employment, in 2011 after passage of almost more than ten years, which has been turned down on the ground of delay.

3 We do not find any error in the action of the respondents in turning down the request of the petitioner on the ground of unexplained long delay.

4 In the case of *Umesh Kumar Nagpal Vs. State of Haryana* (1994) 4 SCC 138), the Supreme Court has observed thus:-

" As a rule, appointments in the public services should be made strictly on the basis of open invitation of applications and merit. No other mode of appointment nor any other consideration is permissible. Neither the Governments nor the public authorities are at liberty to follow any other procedure or relax the qualifications laid down by the rules for the post. However, to this general rule which is to be followed strictly in every case, there are some exceptions carved out in the interest of justice and to meet certain contingencies. One such exception is in favour of the dependents of an employee dying in harness and leaving his family in penury and without any means of livelihood. In such case, out of pure humanitarian consideration taking into consideration the fact that unless some source of livelihood is provided, the family would not be able to make both ends meet, a provision is made in the rules to provide gainful employment to one of the dependents of the deceased who may be eligible for such employment. The whole object of granting compassionate employment is thus to enable the family tide over the sudden crisis. The object is not to give a member of such family a post much less a post held by the deceased. "

5 Considering the law laid down by the Supreme Court, delayed application presented after ten years, after the occurrence of the sudden crisis, cannot be a consideration for offering employment to the petitioner. It has to be presumed that, after passage of ten years, the family has absorbed the shock sustained as a result of death of the sole bread- earner.

6 For the reasons recorded above, no interference is called for. Petition is devoid of substance and hence stands dismissed.

(P.R. BORA, J)

(R.M.BORDE, J)

vbd