

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

WRIT PETITION NO. 11365 OF 2015

APEKSHA RAJENDRA KOLSE. ... PETITIONER.

VERSUS

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

...

Advocate for Petitioner : Mr.Kolse Patil Madhukar G.
AGP for Respondents/State: Mr.A.G. Magre.
Advocate for Respondents 2 to 6 : Mr.Bajaj Anil S.

...

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

Dated: February 04, 2016.

PER COURT :-

1. Heard learned Counsel for the parties.

2. By filing this petition under Article 226 of the Constitution of India, the petitioner seeks directions to the respondents to accommodate / appoint the petitioner on compassionate ground. Learned Counsel for the petitioner submits that, father-in-law of the petitioner was in the employment of respondents No.2 to 6. He died during the

course of the employment. The name of husband of the petitioner was included in the list of the persons to be appointed on compassionate ground. He further submits that, as a matter of fact, husband of the petitioner was given appointment on temporary basis and thereafter, after his death, an appointment order came to be issued by the respondents on regular basis. Learned Counsel for the petitioner invited our attention to Clause (2) of the Appendix - "G" at page 11 of the compilation of writ petition and submitted that the scheme for appointment on compassionate ground will cover the cases of the dependents of the temporary employees and of work charged or N.M.R. Workers who meet with fatal accident while on duty. At the cost of repetition, learned Counsel for the petitioner submits that petitioner's husband was appointed on temporary basis and case of the petitioner is covered by clause (2) of the said Scheme. He further invited our attention to the Government Resolution dated 20th May, 2015 issued by the General Administration Department of Government of Maharashtra and in particular, Clause 1(C) of the said resolution and submitted that since name of husband of the petitioner was included in the waiting list of

the persons to be appointed on compassionate ground, the petitioner's name deserves to be included in the said list in view of the provisions of said clause of the aforementioned Government Resolution. Therefore, relying upon the pleadings in the petition, grounds taken therein, annexures thereto including Appendix -"G" at Exh.A and the Government Resolution dated 20th May, 2015, learned Counsel for the petitioner submits that the petition deserves to be allowed.

3. On the other hand, learned Counsel for the respondents No.2 to 6 invited our attention to Clause (5) of the said Scheme and also averments in the affidavit-in-reply and submitted that, in the first place, the petitioner's case is not covered under the said clause. The petitioner's father-in-law died during the course of employment and the daughter-in-law is not entitled for an appointment on compassionate ground since daughter-in-law is not included in clause (5) of the said Scheme / Appendix "G". He further submits that Clause (2) thereof is not applicable to the petitioner's case since petitioner's husband was not given appointment on temporary basis. However, the respondent

Company finding that it takes time for vacancy being available for appointment and meanwhile to support the family of the deceased, formed a Trust and out of the said trust funds i.e. "Maharashtra State Electricity Board Employees' Dependents Welfare Trust" gives monthly monetary benefit at Rs.3000/- per month and for the that purpose the said person is required to remain present in the office for 10 days and the said entitlement of the benefit is not at all in pursuance of any appointment or temporary appointment. He further submits that clause 1(C) of the said Government Resolution dated 20th May, 2015 cannot be made applicable in the facts of the present case since the respondents have not adopted the said Government Resolution and the scheme is governed by the Regulations framed by the respondents. He, therefore, submits that the petition is devoid of any merits and deserves to be rejected.

4. We have heard learned Counsel for the parties. With their able assistance, perused pleadings in the petition, grounds taken therein, annexures thereto, relevant clauses of the Scheme – Appendix "G" and the Government Resolution of which reference is made herein above. At the

outset, it would be apt to reproduce herein below the two Clauses of Appendix "G", on which reliance has been placed by the learned Counsel for the petitioner, which read, thus:

"2) The scheme will cover cases of the dependents of the temporary employees and of work charged or N..M.R. Workers who meet with fetal (sic) accident while on duty."

"5) The widow/widower/daughter/son of deceased employees of the Board can be considered for appointment, provided that the application for employment is made within 5 years from the date of death of the employee."

5. Upon perusal of Clause (5) of the said Scheme, daughter-in-law is not included in the said Clause and therefore, said scheme cannot be made applicable in case of the petitioner invoking Clause (5) thereof. So far contention of the learned Counsel for the petitioner that, since the petitioner is dependent of the husband, who was given appointment on temporary basis is concerned, such appointment is disputed by the learned Counsel for the respondents No.2 to 6. His submission is that, at no point

of time, petitioner's husband was appointed on temporary basis. It is only after his death he was given benefit of trust funds i.e. "Maharashtra State Electricity Board Employees' Dependents Welfare Trust".

6. Coming to the submission of the learned Counsel for the petitioner, that the petitioner's case is covered by Clause 1-C of the Government Resolution dated 20th May, 2015, unless the said Government Resolution is adopted by the respondent – company, it cannot be made applicable automatically to the respondent company.

7. In that view of the matter, for the reasons aforesaid, we are unable to persuade ourselves to grant any relief to the petitioner. Hence, petition stands rejected.

(P.R. BORA, J.)

(S.S. SHINDE, J.)