

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO. 3351 OF 2002

1. Satara City Municipal Council, Satara
through the Chief Officer,
Satara City Municipal Council, Satara.

2. The President,
Satara City Municipal Council, Satara. ... Petitioners

v/s

1 Rajaram Baburao Nikam,
House No.117, Shanivar Peth, Satara.

2 Damodar Ramchandra Ingavale,
House No.27, Sadar Bazar, Satara.

3 Abdulgani Chand Shaikh,
House No.12, Malhar Peth, Satara.

4 Dattatray Maruti Nalavade,
House No.95-A, Chimanpura, Satara.

5 Gorakhnath Kashinath Sasvade,
House No.114, Kesarkar Peth, Satara. ... Respondents
(Expired)

Mr.Ashish P. Pawar i/by Mr.S.R. Borulkar for the petitioners.

Mr.M.S.Topkar for Resp. Nos.1 to 5.

CORAM: N.M. JAMDAR, J.

DATED : 7 JANUARY 2016

ORAL JUDGMENT:

By this petition, the Petitioner Council challenges the order passed by the Industrial Court, Satara, dated 6 February 2001. By the impugned order, the Industrial Court directed the Petitioner Council to give appointments to the heirs and dependents of the Respondents on compassionate basis.

2. The Respondents filed Complaint (ULP) No.5 of 1994 in the Industrial Court, Satara, under Section 28 read with Items 4 and 9 of Schedule IV of the M.R.T.U. & P.U.L.P. Act, 1971. Respondents contended that the legal heirs of Class IV employees will have to be taken in employment on compassionate basis and inspite of this position, the heirs of the Respondents were not being considered. The Industrial Court relied upon a policy of the State Government in respect of appointments on compassionate basis and the fact that the legal heirs of some other employees were taken in service. Accordingly, the Industrial Court, by the impugned order allowed the Complaint and directed the Petitioner Council to give employment to the legal heirs of the Respondents whenever clear vacant sanctioned posts occurred.

3. At the time of issuing Rule in this petition on 27 September 2002, interim relief staying the impugned order was granted and continues till date.

4. I have heard learned counsel for the parties.

5. Going by the age of the Respondents, as stated in the cause title of the Petition, Respondent No.1 would now be 86, Respondent No.2 would now be 83, Respondent No.3 would now be 82, Respondent No.4 would now be 83. Respondent No.5 has expired. Their heirs/dependents would also be of substantially advanced age today. The entry in public service, such as, municipal council, is regulated by rules. The policy of the State Government dated 6 October 1989, which is placed on record regarding employment on compassionate basis, states that those who have been expired, gone missing, prematurely retired on medical ground, would be entitled to the benefit of the policy. Nothing is shown, neither it is recorded by the Industrial Court that any of the Respondents fall in the said clause. The only assertion that is made that on simplicitor retirement from service, the heirs should be taken in service. The Respondents, therefore, are not entitled to the benefit of the Government Resolution dated 6 October 1989. A simplicitor compassionate appointment on mere superannuation is not contemplated in service Rules, nor in the Government Resolution dated 6 October 1989. Learned counsel for the Respondents is not able to show any such decision.

6. It has been laid down by the Apex Court in various decisions that the appointment on compassionate basis must be clearly spelt out in the rules. The object of such appointment is to provide relief to the family to tide over the sudden crisis of loss of bread winner. The appointment on compassionate basis is not to be treated as an another source of recruitment unless so specifically

provided by the rules. It cannot also be granted irrespective of the factual circumstances prevailing when the relief is to be extended. The impugned order was passed in the year 2001. By the interim relief granted in the year 2002, this direction was stayed.

7. The learned counsel for the Respondents also had to agree that even the heirs of the Respondents would be of advanced age as on date. Without reference to any of these facts at this stage, no relief can be granted to the heirs of the Respondents. Furthermore, the Respondents have not shown any legal right.

8. In the circumstances, the petition deserves to be allowed.

9. Accordingly, Rule is made absolute in terms of prayer clause (b). No order as to costs.

(N. M. JAMDAR, J.)