

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

Writ Petition NO. 1615 OF 2016

Smt Rekha Rajaram Kumbhar

...Petitioner

Versus

State Of Maharashtra And Ors

...Respondents

Mr.Satyajeet A. Rajeshirke with Mr.Rahul B.Vijaymane, for the Petitioner.

Mr.VN.Sagare, AGP for Respondent No.1-State.

**CORAM : ANOOP V. MOHTA &
G.S. KULKARNI, JJ.**

DATE : 26th October, 2016.

ORDER:

1. The Petitioner has filed this petition seeking a direction to Respondent Nos.2 to 4 to consider the proposal/application of the Petitioner for appointment on compassionate ground. The Petitioner is the widow of late Rajaram Babu Kumbhar who was working in the office of Respondent no.2 as lineman on permanent basis, who expired on 15 February 2005 while in service.

2. As the Petitioner's husband died in harness, the Petitioner made an application dated 15 September 2006 for appointment on

compassionate ground. After going through the selection process, the Petitioner was recommended to the post on 10 January 2008. On 12 March 2008 Respondent Nos.2 to 4 directed the Petitioner to submit a succession certificate and no objection of other legal heirs.

3. By an order dated 12 March 2008 the learned Civil Judge, Senior Division, Islampur, Dist Sangali granted succession certificate. The Petitioner has stated that on 13 August 2013 she was already selected and all necessary documents are submitted and therefore, the Petitioner should be granted compassionate appointment. However, by letter dated 7 July 2014 bearing No.Kaa/Isla/Mansvi No.3874, the request of the Petitioner was not accepted and the Petitioner was not granted appointment on the ground that the Petitioner has not submitted the succession certificate which was required to be submitted. The Petitioner was therefore called upon to submit the succession certificate.

4. The learned Counsel for the Petitioner submits that in fact she has complied with the requirement as also she was selected for appointment on compassionate ground. It is submitted that the reasons in the impugned communication dated 7 July 2014 are also contrary to the position on record that the succession certificate granted by the learned

Civil Judge, Senior Division was already submitted to Respondent Nos.2 to 4 and therefore, the Petitioner ought to have been legitimately granted appointment on compassionate ground.

5. We see much substance in the contention as urged on behalf of the Petitioner. It appears that the requirement as indicated by Respondent No.3 in its letter dated 7 July 2014 has already been complied with. The Petitioner has also placed the succession certificate on record of this Petition. If this is the only requirement, then, in that case Respondent Nos.2 to 4 ought to have considered the Petitioner's application for appointment on compassionate ground. In fact that is the principal prayer as made in the Writ Petition.

6. Considering the facts and circumstances of the case, if we consider to grant prayer clause (a), the same would not cause prejudice to the Respondents even when they are not before the Court, as this is the only prayer of the Petitioner that her application/proposal for appointment on compassionate ground be considered by Respondents 2 to 4.

7. We accordingly allow this Petition in terms of prayer clause

(a) which reads thus:-

“(a) This Honourable Court may be pleased to issue Writ of Mandamus or Writ in the nature of Mandamus or any other Writ or direction and hereby direct the Respondents to consider the Proposal/Application of the Petitioner for the appointment on the compassionate ground.”

8. Respondent Nos.2 to 4 shall accordingly consider the application/proposal of the Petitioner in accordance with law within a period of four weeks from receipt of a copy of this order.

9. The Petition is accordingly disposed of in the above terms. No costs.

10. Parties to act on the basis of the authenticated copy of this order.

(G.S.KULKARNI, J.)

(ANOOP V. MOHTA, J.)