

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.1234 OF 2016

[Sunita wd/o Popatlal Warkari and one .vs. State of Maharashtra and one]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri V.N. Patre, counsel for the petitioners,
Mrs. Kalyani Deshpande, AGP for respondent no.1,
Shri P.P. Deshmukh, counsel for respondent no.2.
.....

CORAM : SMT. VASANTI A. NAIK AND
MRS. SWAPNA JOSHI, JJ.

DATED : JUNE 14, 2016.

By this petition, the petitioners seek a direction to the respondent no.2–Chief Officer, Municipal Council, Digras, District-Yavatmal to appoint the petitioner no.2 on compassionate ground.

Shri Popatlal Warkari was employed by the respondent no.2 as a Clerk in Municipal Council, Digras. Popatlal died while in service on 31.5.2001. After the death of Popatlal, the petitioner no.1, the widow of Popatlal, applied for appointment on compassionate ground. In pursuance of the proposal submitted by the petitioner no.1 on 17.2.2003, the respondent no.2 included the name of the petitioner no.1 in the waiting list of the candidates that could be appointed on compassionate ground. It is the case of the petitioners that the petitioner no.1 became overaged in the due course of time and in the year 2009, she applied to the respondent no.2 for inclusion of the name of her son i.e. the petitioner no.2 in the waiting list. The respondent no.2, however, refused to include the name of the petitioner no.2 in the waiting list and failed to appoint either the petitioner no.1 or the petitioner no.2 on compassionate ground.

The respondent no.2 has filed the affidavit-in-reply. It is stated in the affidavit-in-reply that the petitioner no.1 became overaged in the year 2003 only. It is stated that the application of the petitioner no.1 for inclusion of the name of the petitioner no.2 in the waiting list was not favourably considered in consonance with the relevant policy. It is stated that the petitioner no.1 was not appointed as she was overaged and the petitioner no.2 could not have been appointed after a long time by substituting his name in place of the petitioner no.1 in the waiting list, against the relevant policy. It is stated that some of the candidates in the waiting list were appointed recently as they had not crossed the upper age limit for appointment. The learned counsel for the respondent no.2 sought for the dismissal of the writ petition.

On hearing the learned counsel for the parties, it appears that the relief sought by the petitioners cannot be granted. A direction cannot be issued to the respondent no.2 to appoint the petitioner no.2 on compassionate ground. The father of the petitioner no.2 expired in the year 2001. More than 15 years have lapsed from the date of the death of Popatlal. The petitioner no.2 had not applied for appointment on compassionate ground after the death of his father. The mother of the petitioner no.2 had applied. She had belatedly requested the respondent no.2 to delete her name in the waiting list and include the name of the petitioner no.2 as she had become overaged. Since this could not have been done by the respondent no.2, in view of the policy in regard to compassionate appointment, the respondent no.2 did not include the name of the petitioner no.2 in the waiting list. The claim of the petitioners that some of the candidates were appointed in the year 2014 and hence the petitioner no.2 should also be appointed was rightly rejected, as the said candidates had

applied for compassionate appointment and they had not crossed the upper age limit. In the circumstances of the case, a direction cannot be issued to the respondent no.2 to appoint the petitioner no.2 in the respondent no.2-Municipal Council.

In the result, the writ petition fails and is dismissed with no order as to costs.

JUDGE

JUDGE

Gulande