

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

WRIT PETITION NO.2465/2016
Sushilkumar s/o Laxman Mardane

...Versus...

State of Maharashtra, through its Secretary, Municipal Administration,
Mantralaya, Mumbai – 32 and others

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

Court's or Judge's orders

Shri R.L. Khapre, Advocate for petitioner
Ms N.P. Mehta, AGP for respondent nos.1 to 4

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

DATE : 15.06.2016

By this writ petition, the petitioner seeks a direction to the respondent - Municipal Council to appoint the petitioner on a Class-III post on compassionate ground. In the alternative, the petitioner seeks a direction to the respondent – Municipal Council to decide the representation made by the petitioner for compassionate appointment.

The father of the petitioner was working as a Cashier with the respondent – Municipal Council and at the age of 59, when he was on the verge of retirement, he suffered a paralytic stroke. The father of the petitioner was compulsorily retired from service on 30.6.2005, in view of his disability. In the month of July, 2005, the petitioner applied to the Municipal Council for his appointment on a Class-III post on compassionate ground. The name of the petitioner was included in the waiting list. It is the case of the petitioner that time and again, the Collector had asked

the Municipal Council to consider the claim of the petitioner for appointment on compassionate ground but the Municipal Council has not favourably considered his claim. It is stated that the petitioner was finally informed by the Municipal Council by a communication, dated 1.1.2012 that he cannot be considered for appointment on a Class-III post, as he has not passed the 12th standard examination. According to the petitioner, passing of 12th standard examination was not necessary when he applied in July, 2005 and the said policy came into existence in the year 2007. It is stated that in 2013 the petitioner has passed the 12th standard examination from Yashwantrao Chavan Maharashtra Open University. It is stated that a direction be issued against the respondent – Municipal Council to appoint the petitioner on compassionate ground and/or to decide his representation.

The relief sought by the petitioner cannot be granted, in the circumstances of the case. The object of compassionate appointment is to grant some financial aid and assistance to a family of a breadwinner, who dies, while in service, in harness. The father of the petitioner had suffered a paralytic stroke when he was on the verge of retirement and he was compulsorily retired a few months before the date of his superannuation, on 30.6.2005. If the petitioner had applied in pursuance of the compulsorily retirement of his father, in July, 2005 and his claim was not favourably considered despite the communications issued by the Collector to the Municipal Council, as claimed by the petitioner, the petitioner ought to have approached this Court within a reasonable time. It was necessary for the petitioner to

have approached this Court latest in the year 2007 to seek a direction against the respondent – Municipal Council to appoint the petitioner on compassionate ground. The petitioner, however, did not do so till he filed the instant petition on 17.4.2015. The communication that is impugned in the petition is dated 1.1.2012. There is an inordinate delay in filing the petition, even from the service of the communication on the petitioner. The object of compassionate appointment would get frustrated, if a candidate approaches a Court for appointment on compassionate ground more than 10 years from either the death of the breadwinner or from the date of acquiring the disability by the breadwinner. There is a gross delay on the part of the petitioner in approaching this Court. It would be proper for the Municipal Council to grant compassionate appointment to the dependents of those who have died recently. Time and again, it is held by the Hon'ble Supreme Court that the object of granting compassionate appointment would get frustrated by delay. Also, it is held by the Hon'ble Supreme Court in the judgment, reported in **2013 (1) SCALE 506** that the Courts should not carry Santa Claus's big bag on Christmas eve to disburse the gift of compassionate appointment to those who seek the Courts intervention.

Since no case is made out by the petitioner for grant of the relief claimed, we dismiss the writ petition with no order as to costs.

JUDGE

JUDGE