

- 1 -

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.2710/2016

Tushar Upendra Joshi.

...Petitioner..

Versus

The State of Maharashtra & others.

...Respondents...

.....

Shri D.P. Palodkar, Advocate for petitioner.

Smt.M.A. Deshpande, AGP for respondent no.1.

Shri A.B. Kadethankar, Advocate for respondent nos.2 & 3.

.....

**CORAM: DR.MANJULA CHELLUR, CJ. &
R.M. BORDE, J.**

DATE: 29.06.2017

ORDER :

1] Heard learned counsel for the parties.

2] The petitioner is before this Court seeking employment on compassionate ground. Apparently, the mother of the petitioner was working in the department when she died during service on 30.7.2003. The petitioner was 11 years old at the time of death of his mother. He sought for employment under the reservation quota meant for compassionate appointment in the year

- 2 -

2008 and the same came to be refused on the ground that the application was time barred. Aggrieved by the same, the petitioner is before this Court.

3] In order to consider an appointment under the quota of compassionate ground, one has to first see whether the circumstances, which the petitioner had faced, continue to be the same after five years from the date of death of his parent and whether there is compliance not only of the procedure but the criterion for getting such employment. In terms of procedure, one has to apply for employment or appointment on compassionate ground within one year from the date of death of the parent and one more year relaxation is provided if under exceptional circumstances, the Chief Justice approves the relaxation of period of one year thereby maximum period within which the application could be considered is two years from the date of death.

4] In the present case, apparently the petitioner was not eligible for such employment on the date of death of the deceased since he was only 11 years and even if he were to make application, he would have been only 13 years with the maximum time relaxation provided in terms

- 3 -

of the procedure. No doubt, there is no procedure contemplated so far as minor children of the employees, who die in harness. The application by the petitioner is made three years after attaining the age of majority. By interpreting Rules 8 and 10 of the Rules applicable, one could conclude that from the date of entitlement to apply for such appointment, maximum time within which the application could be given would be two years. Apparently, the application submitted was beyond two years. Therefore, in terms of procedure and the Rules applicable, the application was made beyond the time prescribed, and according to us, it is correct.

5] Then coming to the facts, after the death of the deceased, her husband applied for the appointment on compassionate ground and the same came to be rejected since he was gainfully employed in a private service. The very purpose for which compassionate appointments are provided is to ease out financial difficulties for the family, especially the dependents on the deceased, who died during service. Therefore, one of the conditions is as to whether the dependents were left in harness at the time of death of the deceased. After the petitioner

- 4 -

became eligible eight years after the death of the mother, there is nothing on record even to show that how he sustained for the last eight years. Learned counsel for the petitioner submits that he was maintained and looked after by maternal uncle, but no record supporting the said submission is forthcoming. Even otherwise, if father was gainfully employed in a private employment, we fail to understand under what circumstances, the boy left the guardianship of his father and went to stay with the maternal uncle.

6] Viewed from any angle, we are of the opinion that the ground on which the application was rejected is justified and accordingly we decline to interfere.

7] The petition is dismissed. No costs.

(R.M. BORDE, J.)

CHIEF JUSTICE