

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 11427 OF 2016

Manmath Shivaji Patwe

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Shri Ganesh A. Gadhe, Advocate for the Petitioner.

Shri S. B. Yawalkar, Addl.G.P. for the Respondent No. 1.

**CORAM : S. V. GANGAPURWALA AND
SANGITRAO S. PATIL, JJ.**

DATE : 12TH APRIL, 2017.

PER COURT :

. Mr. Gadhe, the learned counsel for the petitioner submits that, father of the petitioner was in employment with respondent Nos. 2 and 3. While in service the father of the petitioner died in the year 2005. The mother of the petitioner applied for appointment on compassionate ground. The mother of the petitioner was kept in the wait list, however, as there was no vacancy, the mother of the petitioner could not be appointed and on attaining 40 years of age, her name came to be removed from the wait list. The petitioner subsequently became major in the year 2014. The petitioner applied for appointment on compassionate ground in the year 2015. The said application is negatived by order dated 03rd March, 2016 on the ground that,

there is no provision for substitution. The learned counsel submits that, it is not a case of substitution. The petitioner can apply for appointment on compassionate ground upon attaining age of majority. At the time of death of father of the petitioner, the petitioner was minor. This aspect has not been considered. The learned counsel relies on the judgment of the Division Bench of this Court at Nagpur in Writ Petition No. 6322 of 2012 decided on 01st April, 2013.

2. The learned Additional Government Pleader appears for the respondent No. 1.

3. The judgment in Writ Petition No. 6322 of 2012 may not inure to the benefit of the petitioner. In the said case father and mother of the petitioner had died and for the first time upon becoming major, the petitioner therein had applied for appointment on compassionate ground.

4. In the present case, upon the death of the father of the petitioner, mother of the petitioner had applied for appointment on compassionate ground. However, unfortunately before her turn could come, she had crossed upper age limit of 40 years as was prevailing at that time. As such, her name came to be removed. Considering case of the petitioner after twelve years would not be in consonance with the object of appointment on

compassionate ground. The very purpose of appointment on compassionate ground is to provide succor to the family of the deceased.

5. Considering the above, claim of the petitioner cannot be considered. The writ petition as such is disposed of. No costs.

[SANGITRAO S. PATIL, J.]

[S. V. GANGAPURWALA, J.]

bsb/April 17