

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

WRIT PETITION NO.8057 OF 2011

Javed Abbas Khatik,
Age : 26 years, Occ. Nil,
r/o. Jamda, Tq.Chalisgaon,
Dist. Jalgaon

..Petitioner

Vs.

Executive Director,
Maharashtra State Electricity
Distribution Company Ltd.,
Prakash Garh, Bandra East,
Mumbai – 400 051

..Respondent

Mr.M.U.Shelke, Advocate i/b. Mr.Sharad Natu, Advocate for
Petitioner
Mr.A.S.Bajaj, Advocate for respondent - sole

**CORAM : SUNIL P. DESHMUKH AND
SANGITRAO S. PATIL, JJ.
DATE : SEPTEMBER 26, 2017**

ORAL JUDGMENT (PER *SUNIL P. DESHMUKH, J.*) :

1. Rule. Rule made returnable forthwith and heard finally
with consent of counsel for parties.

2. The petitioner prays for following reliefs :-

(A) By issuance of writ of mandamus or writ or
direction in like nature, the respondent be directed
to issue appointment order on compassionate basis
in favour of the petitioner;

(B) By issuance of writ of mandamus or writ or direction in like nature, the respondent be directed to comply with their own communication dated 29.5.2003 and accordingly pay the amount of compensation as stated in their own communication and petitioner may be allowed to withdraw the same.

3. The father of the petitioner, who had been working as a Lineman/Helper with the respondent, sustained 90% disability and consequently, died during the course of employment on 23.05.1987. Mother of the petitioner had requested for appointment on compassionate ground before the Industrial Court. That complaint, however, was held to be not tenable by the Industrial Court.

4. In the affidavit-in-reply filed by the respondent, it is stated that under the provisions of the Workmen's Compensation Act, legal heirs were entitled to get Rs.78,466/- towards compensation. The respondent had deposited said sum in the Labour Court on 01.08.1999, which had been withdrawn by the mother of petitioner namely, Hajrabai Abbas Khatik.

5. The respondent has further clarified the position about making deposit of compensation amount to the tune of Rs.2,32,479/-

was in view of the compliance of the judgment in favour of one Yuvraj Radho Mahajan and it was paid to said Yuvraj. It is further stated in the affidavit that by mistake, officer of the respondent communicated the petitioner about deposit of said amount as death compensation in respect of death of his father. The claim of the petitioner based on the said communication as such would not be proper and not payable.

6. Mother of the petitioner has already received the amount pursuant to Workmen's Compensation Act. In the facts and circumstances of the case and having regard to above as petitioner's mother has withdrawn that amount of compensation, in our opinion, the claim for amount is rendered untenable. It does not appear that petitioner could have been appointed looking at his age that was while his father had died. His mother does not appear to have pursued her claim for appointment on compassionate ground after she failed to secure relief before Industrial Court. Even otherwise petition would not carry any fruitful purpose after thirty years of death of the employee. Looking to the nature of the petition and in view of the affidavit-in-reply filed on behalf of the respondent, the Writ Petition stands dismissed and disposed of.

[SANGITRAO S. PATIL, J.]

[SUNIL P. DESHMUKH, J.]

kbp