

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

**REVIEW APPLICATION (CIVIL) NO. 98 OF 2011
IN
WRIT PETITION NO.1009 OF 2010
ULHAS RAMESHRAO PATHRIKAR
VERSUS
THE STATE OF MAHARASHTRA AND ORS**

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Advocate for the Applicant : Shri A.S. Deshpande.
AGP for Respondents 1 to 3 : Shri Y.G.Gujrathi.
Advocate for Respondent 4 : Shri A.S.Gandhi.

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**CORAM: RAVINDRA V. GHUGE
AND
SUNIL K. KOTWAL, JJ.**

DATE :- 31st October, 2017

Per Court :

1 The Petitioner seeks review of the order passed by this Court on 07.10.2010 by which, Writ Petition No.1009/2010 filed by him has been dismissed.

2 We have considered the strenuous submissions of the learned Advocates for the respective sides and have gone through the eleven grounds formulated by the Petitioner.

3 The Petitioner was before this Court seeking a direction to the Chief Officer of the Municipal Council to induct the Petitioner in service on compassionate basis in the light of the retirement of his father on 31.03.2001 on medical grounds.

4 The contention is that the father of the Petitioner had applied

for voluntary retirement on medical grounds on 01.01.2001. His application was kept pending by the Municipal Council and finally, he was referred to the Medical Board for examination. Pursuant to the medical examination dated 28.03.2001, the Medical Board declared the Petitioner's father as being medically unfit to be continued in service, vide the certificate dated 30.03.2001. Consequentially, the application of the Petitioner's father was accepted and he was retired on medical ground on 31.03.2001.

5 The State of Maharashtra, by the Government Resolution dated 28.03.2001, modified the earlier scheme made applicable for enabling compassionate appointments and introduced a condition that the legal representatives of the persons, who are permanently disabled from continuing in employment prior to completion of their age of 50 years due to cancer, paralysis or accident, would be considered for appointment on compassionate ground.

6 This Court, while delivering the judgment dated 07.10.2010, has concluded that as the father of the Petitioner retired on 31.03.2001 and was more than 50 years of age, his case for voluntary retirement and the case of the Petitioner for compassionate appointment would be referable to the date on which the Petitioner's father retired on medical ground. That date being 31.03.2001, disentitles the Petitioner for compassionate appointment as the policy enabling compassionate

appointment underwent a change vide the resolution dated 28.03.2001.

7 The strenuous submission of Shri Deshpande, learned Advocate for the Petitioner, is that the Petitioner cannot be blamed for the delay caused by the Municipal Council in keeping the application of his father pending for almost 87 days. He submits that since the Petitioner is not at fault on account of the delay caused by the Municipal Council, the case of the Petitioner needs consideration.

8 In our view, we do not find that the application of the Petitioner's father was kept pending for a long duration or that an inordinate delay was caused by the Municipal Council. His application was considered and it appears that the Petitioner's father was referred for medical examination on the 87th day from the filing of the application. It is purely a stroke of misfortune that the policy of the Government with regard to compassionate appointment has undergone a change on 28.03.2001 and the Petitioner's father was retired on 31.03.2001 which disentitles the Petitioner as his father was more than 50 years of age.

9 Considering the above, we do not find that the Petitioner has made out any ground which would point out an error apparent on the face of the order under review. As such, we do not find any merit in this Review Application and the same is, therefore, rejected.