

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO.763 OF 2016

Smt. Kevalabai Subhash Waghmare
and another

...Petitioners

Versus
State of Maharashtra
and others

...Respondents

....

Mr. N.M. Ganguli for the Petitioners.

Mr. Vishwanath Patil i/b. Mr. Yuwraj Patil for Respondent Nos. 4 to 6.

....

**CORAM : NARESH H. PATIL AND
Z.A. HAQ, JJ.**

10th AUGUST, 2017.

P.C.:

1. Heard.

2. The Petitioner No.1, claiming to be the widow and Petitioner No.2 claiming to be the daughter of deceased employee, challenge the appointment of the Respondent No.5 on compassionate grounds. The contention of the Petitioners is that the Respondent No.5 is not entitled to be appointed on compassionate grounds as legal heir of deceased employee as he is an illegitimate son of the deceased employee.

2. It is undisputed that the deceased employee Subhash Waghmare had declared in writing that Sham Waghmare should be given an appointment on compassionate grounds.

The learned Advocate for the Respondent No.5 has further pointed out that, according to the policy of the State Government,

the person to be considered for appointment on compassionate grounds should be a legal heir of the retired employee and he should be living with the retired employee. The communication sent by the Medical Superintendent to the Petitioner No.1 on 17th December, 2015 shows that, the deceased employee Subhash Waghmare had declared that Sham Waghmare be given appointment on compassionate grounds as Smt. Kevalabai and her family members (Petitioner No.2) were not staying with him since 25 years and Sham Waghmare was taking his care. The learned Advocate has further pointed out the judgment given by the Division Bench of this Court in the case of ***Union of India and another vs. V.R. Tripathi*** reported in ***2016(3) Mh.L.J. 913***, in which it is laid down that the second wife is entitled for appointment on compassionate grounds provided the other rules, regulations and executive instructions are fulfilled.

3. The Petitioner has not been able to point out that the Respondent No.5 is otherwise ineligible to be appointed on the post on which he is appointed.

4. In the facts of the case, we hold that the appointment of the Respondent No.5 on compassionate grounds cannot be faulted with. There is no substance in the challenges raised by the Petitioners. The Writ Petition is dismissed. In the circumstances, the parties to bear their own costs.

(Z.A. HAQ, J)

(NARESH H. PATIL, J)