

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

16 WRIT PETITION NO. 1889 OF 2017

RAM NANABHAU MULE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. U.R. Awate h/f Mr. Talekar
And Associates

AGP for Respondent Nos 1 & 2 : Mr. C.S. Kulkarni

Advocate for Respondent No. 3 : Mr. Patil B.N.

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CORAM : S.V.GANGAPURWALA
AND
SUNIL K.KOTWAL, JJ.

DATE : JULY 19, 2018

O R D E R :

The petitioner seeks appointment on compassionate ground. The learned counsel for the petitioner submits that the father of the petitioner was permanent employee of respondent no. 3 Municipal Council. He died on 30.7.2011 while on duty. The petitioner on 1.11.2011 applied for appointment on compassionate ground. The petitioner was placed at serial no. 2 of the wait list of the persons to be appointed on compassionate ground. The learned counsel

submits that person at Sr. No.3 on the wait list was given appointment and case of the petitioner was not considered because of the event that criminal case was filed by the petitioner. The respondents were annoyed and appointment was not given to the petitioner. The juniors to the petitioner, time and again are appointed on compassionate ground, however, the case of the petitioner was not considered.

2. Mr. Patil, learned counsel for Municipal Council submits that person at Sr.No. 3 was appointed on class-III post, whereas the case of the petitioner is for Class-IV post. The proposal was also forwarded by the petitioner to the Collector. but without waiting for approval, false and baseless allegations were made by the petitioner against the Chief Executive Officer, the President and a false complaint was also filed. The cognizance was not taken. Revision was filed by the petitioner. Revision is also dismissed. As the wanton

allegations were made by the petitioner against the authorities, the case of the petitioner was kept pending awaiting decision of criminal case. One post is kept vacant. Now, the proposal of the petitioner would be placed before the General Body and the decision would be taken.

3. We have considered the submissions canvassed by learned counsel of respective parties.

4. There is no dispute about the factual aspect that the father of the petitioner was in service with respondent Municipal Council and while in service died. The petitioner was entitled to seek appointment on compassionate ground commensurate with his eligibility. The name of the petitioner was also kept in wait list of the persons to be appointed on compassionate ground. He was at Serial No. 2. According to the petitioner, the person at Serial no. 3 was given appointment thereby impeding the right of

the petitioner. Clarification is given by the respondent that person at Serial No. 3 was appointed on class III post.

5. Be that as it may, we are not entering into the said contentions. It is not disputed by the respondent that one post is kept vacant for filling in the post on compassionate ground and the case of the petitioner would be placed before the General Body.

6. The resolution was also passed by Municipal Council to appoint the petitioner on compassionate ground bearing Resolution No. 29. In such a case, when the post is kept vacant and even juniors to the petitioner are appointed, there would be no impediment to appoint the petitioner on compassionate ground.

7. In the light of that, respondent no. 3 shall take steps to appoint the petitioner on compassionate ground on Class IV post. The same shall be done expeditiously and preferably within three months.

8.. Writ petition is disposed of. No costs.

[**SUNIL K.KOTWAL, J.**] [**S.V.GANGAPURWALA, J.**]

mahajansb/