

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

WRIT PETITION NO. 3431 OF 2004

Ahmednagar Municipal Corporation,
Ahmednagar,
Through its Commissioner

...PETITIONER
(Orig.Respondent)

VERSUS

Kamal Madhav Jagdhane,
Age : 25 years, Occu. Nil,
R/o Siddharth Nagar, Ahmednagar.

...RESPONDENT
(Orig.Complainant)

...
Advocate for the petitioner : Shri K.N. Lokhande

...

CORAM : RAVINDRA V. GHUGE, J.
DATED : 10th May, 2018.

...

ORAL JUDGMENT :-

1. The petitioner/Ahmednagar Municipal Corporation is aggrieved by the judgment dated 29/09/2003 delivered by the Industrial Court by which, Complaint (ULP) No. 73/1998 filed by the respondent, has been partly allowed and the petitioner is directed to include her name in the waiting list of employees to be appointed on compassionate basis.

2. On 19/08/2004, when this Court admitted this

petition, it was recorded that the respondent Kamal is provided with work by the petitioner and her employment with the petitioner would be subject to the result of the petition. Interim relief was, therefore, refused to the petitioner.

3. The learned advocate for the petitioner submits, on oral instructions, from the Corporation that the respondent Kamal is not in employment.

4. Despite service of court notice, the respondent has not entered an appearance, either in person or through an advocate.

5. I find from the record that Madhav Jagdhane was a permanent employee of the petitioner corporation. His wife Sulochana was also a permanent employee of the petitioner corporation. Madhav died on 04/06/1992. One Ashok Devaji Tujare, who was the maternal uncle of the deceased Madhav, applied for compassionate appointment on 23/06/1992 and the widow Sulochana consented to such application. The same

was rejected. Thereafter, Malan Mariba Jagdhane who is the daughter of the brother-in-law of the deceased Madhav, applied for compassionate appointment on 14/01/1993 with the consent of the widow Sulochana. Same was also rejected as the said applicant was not entitled. Malan filed complaint (ULP) 393/1993 and the same was pending before the Industrial Court when Kamal daughter of deceased Madhav filed complaint (ULP) No. 73/1998 (instant proceedings) claiming compassionate appointment.

6. The record reveals that Kamal is already married to Krushna Bandu Kapse, about five years prior to staking her claim for compassionate appointment. The rules applicable do not permit a married daughter, and whose husband is already in employment elsewhere, to be eligible for compassionate appointment. Yet, the Industrial Court by the impugned judgment allowed the complaint and directed the petitioner to include the name of Kamal in the waiting list of employees for facilitating her compassionate appointment.

7. The peculiar facts of this case clearly indicate an abuse of the policy of compassionate appointment. In catena

of judgments, the Honourable Supreme Court as well as various High Courts have laid down the law that compassionate appointments are aimed at providing immediate relief and succour to the family of the deceased as the bread earner has suddenly passed away while in service.

8. In the instant case, the deceased Madhav as well as his wife Sulochana were permanent employees of the corporation. The daughter Kamal was married five years before staking her claim. The Industrial Court, despite the fact that her mother Sulochana is a permanent employee with the same Corporation and Kamal is already married, allowed the complaint paving way for the appointment of Kamal.

9. Considering the above, this petition is allowed. The impugned judgment of the Industrial Court dated 29/09/2003 is quashed and set aside and Complaint (ULP) No. 73/1998 stands dismissed. Rule is made absolute accordingly.

(RAVINDRA V. GHUGE, J.)

shp/-