

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.7394 OF 2016

Amol s/o Rajendra Kalshetti,
age: 19 years, Occ: Student,
R/o Sham Nagar, Latur,
District Latur.

Petitioner

Versus

01 The State of Maharashtra,
through its Secretary,
Agricultural and Animal
Husbandry Department,
Mantralaya, Mumbai-32.

02 The Commissioner,
Commissioner of Agricultural,
M.S., Central Building,
3rd Floor, Pune-11.

03 The Commissioner,
Divisional Commissioner Office,
Division, Aurangabad.

04 The Collector,
Latur, District Latur.

05 The Superintendent of
District Agricultural Officer,
Latur, District Latur.

Respondents

Mr.D.S.Mali, advocate for the petitioner.
Mr.S.Y.Mahajan, A.G.P. for Respondents No.1 to 4.
Writ Petition Dismissed as against Respondent No.5 vide Court's
order dated 19.08.2016.

**CORAM : R.M.BORDE AND
K.K.SONAWANE, JJ.
DATE : 05th March, 2018.**

ORDER :

1 The petitioner is praying for appointment in the Government department on compassionate ground in view of the Government Resolutions dated 11.09.1996 and 10.07.2009. Petitioner is also questioning correctness of the communication dated 04.01.2016, informing him that his request for making appointment on compassionate ground has already been rejected in view of the communication dated 17.12.2014. It is further recorded in the communication that the petitioner has already been informed about rejection of his request in the year 2014. In the communication dated 17.12.2014, issued by the District Superintending Agriculture Officer, Latur, it is stated that after demise of the employee i.e. mother of the petitioner, name of father of the petitioner was placed on waiting list. However, before his claim could be considered, he crossed the prescribed age limit and as such, his name has been removed from the waiting list. It is further communicated to the petitioner that the application tendered by him is beyond the period of one year from the date of death of deceased and as such, same cannot be considered.

2 The mother of the petitioner, who was in the employment of Agriculture Department, died on 23.04.2006. After demise of mother of the petitioner, his father, by name Rajendra tendered an application seeking appointment on compassionate ground. Name of father of the petitioner was placed in the waiting list. However, since he crossed the upper age limit prescribed for making appointment on compassionate ground, his name was struck off from the waiting list in the year 2014 and this fact has been communicated to the applicant.

3 The petitioner tendered applications seeking appointment on compassionate ground on 12.09.2014, 27.06.2014, 09.10.2015 and 02.01.2016.

4 It is the contention of respondents that claim of father of the petitioner was considered, however, since father of the applicant crossed upper age limit prescribed for making appointment on compassionate ground, his name came to be struck off from the waiting list. There is no provision in the policy framed by the State Government to record name of any other member of the family in place of original applicant. The petitioner is claiming employment on account of demise of his mother, which took place in the year 2006. The petitioner has been informed as regards rejection of his claim in the month of December, 2014. However, he has approached this Court by presenting instant petition in the year 2016. Even otherwise, claim of the petitioner could not be considered since there is no provision in the policy framed by the State Government to substitute name of petitioner in place of original applicant, who was his father. After the original applicant crossed upper age limit, he became ineligible to claim appointment.

5 Even on consideration of merits of the claim, petitioner is not entitled for employment on compassionate ground after lapse of twelve years from the date of accrual of the cause.

6 In the matter of **Umesh Kumar Nagpal Vs. State of Haryana and others**, reported in (1994) 4 SCC 138, while dealing

with the concept of appointment on compassionate ground, the Hon'ble Supreme Court has observed that, the whole object of granting compassionate employment is to enable the family to tide over the sudden crisis. The object is not to give a member of such family a post much less a post for post held by the deceased. Mere death of an employee in harness does not entitle his family to such source of livelihood.

7 In the matter of **SAIL Vs. Madhusudan Das**, reported in (2008) 15 SCC 560, the Hon'ble Supreme Court has observed thus:

“15 This Court in a large number of decisions has held that the appointment on compassionate ground cannot be claimed as a matter of right. It must be provided for in the rules. The criteria laid down therefor viz. That the death of the sole bread winner of the family, must be established. It is meant to provide for a minimum relief. When such contentions are raised, the constitutional philosophy of equality behind making such a scheme be taken into consideration. Articles 14 and 16 of the Constitution of India mandate that all eligible candidates should be considered for appointment in the posts which have fallen vacant. Appointment on compassionate ground offered to a dependent of a deceased employee is an exception to the said rule. It is a concession, not a right.

8 In the matter of **General Manager, State Bank of India and Others Vs. Anju Jain**, reported in (2008) 8 SCC 475, the Hon'ble Supreme Court has observed thus:

“It has been clearly stated that appointment on compassionate ground is never considered to be a right of a person. In fact, such appointment is violative of rule of equality enshrined and guaranteed under Article 14 of the Constitution. As per the settled law, when any appointment is to be made in Government or semi-government or in public office, cases of all eligible candidates are to be considered alike. The State or its instrumentality making any appointment to public office, cannot ignore the mandate of Article 14 of the Constitution. At the same time, however, in certain circumstances, appointment on compassionate ground of dependents of the deceased employee is considered inevitable so that the family of the deceased employee may not starve. The primary object of such scheme is to save the bereaved family from sudden financial crisis occurring due to death of the sole bread winner. It is an exception to the general rule of equality and not another independent and parallel source of employment.”

9 In the matter of **Union of India and another Vs. Shashank Goswami and another**, reported in (2012) 11 SCC 307, the Hon'ble Supreme Court has observed thus:

“It has been observed that the claim for appointment on compassionate grounds is based on the premise that the applicant was dependent on the deceased employee. Strictly, such a claim cannot be upheld on the touchstone of Article 14 or 16 of the Constitution of India. However, such claim is considered as reasonable and permissible on the basis of sudden crisis occurring in the family of such employee who has served the State and dies while in service, and, therefore, appointment on compassionate grounds cannot be claimed as a matter of right.

10 In the matter of **State Bank of India and another Vs. Raj Kumar**, reported in (2010) 11 SCC 661, the Hon'ble Supreme Court has ruled that the dependents of employees, who die in harness, do not have any special claim or right to employment, except by way of the concession that may be extended by the employer under the rules or by a separate scheme, to enable the family of the deceased to get over the sudden financial crisis. The claim for compassionate appointment is, therefore, traceable only to the scheme framed by the employer for such employment and there is no right whatsoever outside such scheme.

11 Having regard to the enunciation of law on the point as well as on consideration of merits of the claim, we are of the considered opinion that the petitioner is not entitled to claim any relief at this belated stage.

12 Writ Petition, being devoid of substance, stands rejected.

K.K.SONAWANE
JUDGE

R.M.BORDE
JUDGE

adb/