

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

74 WRIT PETITION NO. 7795 OF 2016

SATYAM BALDEVSINGH PARIHAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioners : Mr.Kadam Gajanan G.
AGP for Respondent Nos 1 to 3 : Mr.S.B. Yawalkar
Advocate for respondent no. 4 : Mr. D.P. Bakshi
Advocate for Respondent No. 5 : Mr.Ingole Patil R. K.

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

DATE : JULY 3, 2018

O R D E R :

The petitioner seeks appointment on compassionate ground. The father of the petitioner was serving on the establishment of respondent nos. 3 and 4 at the time of his death. The father of the petitioner was working on deputation with respondent no. 5.

2. The petitioner, it appears, had made an application to respondent nos. 3 and 4, so also respondent no. 5 seeking appointment on compassionate ground. Respondent nos. 3 and 4 rejected the application for

compassionate appointment on 18.1.2014 on the ground of delay.

3. It appears that respondent no. 5 Municipal Corporation passed resolution to appoint the petitioner on compassionate ground. The said resolution is dated 22.8.2012. The said resolution is suspended and is pending with the Government.

4. Mr. Kadam, learned counsel submits that it is erroneous on the part of respondent nos. 3 and 4 to reject application of petitioner for appointment on compassionate ground on the point of delay. In fact, there was no delay after attaining the age of majority. The Application was within limitation. On erroneous ground the order has been passed. The petitioner is in need of service and has right to be appointed on compassionate ground.

5. Mr. Bakshi, learned counsel supports the order.

6. Mr. Ingole Patil, learned counsel for respondent no. 5 submits that the resolution passed

by respondent no. 5 to appoint the petitioner has been suspended and the same is pending with the Government under section 451 of the Bombay Provincial Municipal Corporations Act, 1949.

7. It is further submitted that the father of the petitioner was Group-B employee. The scheme of compassionate appointment is not applicable to the wards of Group-B employees.

8. The very purpose and object of appointment on compassionate ground is to provide immediate succour to the family of deceased dying in harness. The father of the petitioner while on deputation with respondent no. 5 Corporation died in the year 2006. Respondent no. 5 Corporation has already passed resolution in 2012, thereby taking decision to appoint petitioner on compassionate ground. In 2013, the petitioner again approached respondent nos. 4 and 5, Jeevan Pradhikaran seeking appointment on

compassionate ground. It has been rejected on the ground of delay.

9. As we have observed, the ground for compassionate appointment would not subsist for 12 years. Though the application of the petitioner was rejected by respondent nos. 3 and 4 on 18.1.2014, the petitioner has approached this court challenging the same after two and half years. The petitioner cannot seek appointment on compassionate ground with respondent nos. 3 and 4, so also respondent no. 5 at one and the same time. The petitioner had survived for 12 years. Moreover, the father of the petitioner was Group B employee. Scheme of compassionate appointment would not apply to Group B employee.

10. Writ petition as such is dismissed. No costs.

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