

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

WRIT PETITION NO. 2346 OF 2013

Mangalabai w/o Bhaskar Thakare
Age : 49 years, occu.: service
R/o Chandanzira, Shivaji Chowk,
Jalna.

Petitioner.

Versus

1. The State of Maharashtra,
Through its Secretary,
State Transport Department,
Mantralaya, Mumbai.
2. The General Manager,
Maharashtra State Road
Transport Corporation, Mumbai.
3. The Regional Manager,
Maharashtra State Road Transport
Corporation, near CIDCO Bus
Stand, Aurangabad.
4. The Divisional Controller,
Maharashtra State Road Transport
Corporation, New M.I.D.C.,
Aurangabad road, Jalna.
District Jalna.

Respondents.

Mr. M.S. Karad, Advocate holding for
Mr. S.S. Thombre, Advocate for the petitioner.
Mr. Y.G. Gujarathi, A.G.P. for the State.
Mr. U.B. Shriram, Advocate holding for
Mr. D.S. Bagul, Advocate for respondent No.4.

**CORAM : T.V. NALAWADE &
SUNIL K.KOTWAL, JJ.**

**Reserved on : 22nd March, 2018.
Pronounced on : 28th March, 2018.**

JUDGMENT : (PER SUNIL K. KOTWAL,J.)

1. Rule. Rule made returnable forthwith. The Petition is heard finally with the consent of both the parties.

2. By filing this Writ Petition under Article 226 of the Constitution of India, the petitioner claims quashment of the order dated 25.04.2012 passed by respondent No.4 rejecting the claim of petitioner for the post of Traffic Controller in Maharashtra State Road Transport Corporation (hereinafter referred as "M.S.R.T.C.").

3. Respondent No.1 is State of Maharashtra. Respondent No.2 is General Manager, respondent No.3 is Regional Manager and respondent No.4 is Divisional Controller of M.S.R.T.C.

4. In the case at hand, undisputedly husband of the petitioner used to work as technician with respondent No.4 and he died on 15.05.1999 when he was in service. Therefore, on 22.06.1999 petitioner filed application to respondent No.4 for compassionate appointment in M.S.R.T.C. At that relevant time the educational qualification of the petitioner was 10th Standard. However, respondent No.4 by his letter dated 25.11.1999 informed the petitioner that she was not eligible for the post of Clerk or Traffic Controller and she can be given an appointment on the post of the Conductor. Therefore, petitioner sought appointment on compassionate ground on the post of Conductor and accordingly by

an order dated 12.06.2000 the petitioner was appointed on the post of Conductor. Subsequently on 13.12.2004, petitioner completed her graduation from Yashwantrao Chavan Maharashtra Open University, Nashik and became eligible to be appointed as Traffic Controller in M.S.R.T.C.

5. Learned Counsel for the petitioner submitted that after acquisition of required educational qualification for the post of Traffic Controller, though subsequently petitioner applied for the said post, her claim was illegally turned down by respondent No.4 by passing the impugned order. He has drawn our attention to Departmental Circular dated 10.01.2011.

6. Learned Counsel for the respondents submitted that for getting appointment on the post of Traffic Controller Junior on compassionate ground, the eligibility criteria is 10 + 2 qualification. However, on the date of submitting application for appointment on compassionate ground, undisputedly petitioner was not eligible as she acquired 10th Standard qualification.

7. We have carefully gone through Circular dated 10.01.2011. After going through the said Circular it becomes clear that the M.S.R.T.C. has decided to absorb the candidates on the post of Traffic Controller who were appointed on the post of Conductor on compassionate ground, provided that they can fulfill

the following conditions :-

(a) He has filed application on or after 28.09.2000 for appointment on compassionate ground on the post of Traffic Controller or Clerk and his application is entered in the office record of M.S.R.T.C.

(b) On the date of application, the minimum educational qualification of the applicant shall be 12th Standard.

8. However, after the death of her husband, the petitioner has filed application for appointment on the post of Peon or Clerk on compassionate ground on 22.06.1999 and thereafter on 25.11.1999 she was informed by respondent No.4 that she could not be appointed as she was not qualified for the said post and she can be appointed on the post of Conductor (Junior). Accordingly, the petitioner filed second application dated 02.12.1999 for appointment on compassionate ground on the post of Conductor and even at that time her educational qualification was 10th Standard. Accordingly, by order dated 07.01.2001 she was appointed on the post of Conductor on probation of one year. Thus, obviously neither the application of the petitioner was filed for appointment on the post of Traffic Controller or Clerk on or after 28.09.2000 nor at that relevant time her educational qualification was 12th Standard. Only because subsequently the petitioner acquired the requisite educational qualification, she will not be covered by the said Departmental Circular. Under the impugned letter also petitioner was informed

that she was appointed on the post of Conductor on compassionate ground prior to 28.09.2000 and that time her educational qualification was only 10th Standard, and therefore, the petitioner is not entitled to appointment on the post of Traffic Controller in accordance with the said Departmental Circular.

9. In the circumstances, we find that the impugned order passed by respondent No.4 cannot be termed as illegal or discriminating order. The petitioner's claim that other candidates who are junior than the the petitioner are appointed on compassionate ground. However, she has not placed on record any document to show that their applications for appointment on compassionate ground were prior to 28.09.2000 and they were also not eligible for the post of Traffic Controller due to inadequate educational qualification. Therefore, it cannot be said that the juniors appointed on the post of Traffic Controller by respondent No.4 are equally placed candidates with the petitioner.

10. In the circumstances, we do not find any substance in this Writ Petition to invoke powers under Article 226 of the Constitution of India. This petition being devoid of merit, deserves to be dismissed.

11. Hence the following order.

ORDER

- 1) Writ Petition No. 2346/2013 is dismissed.
- 2) Rule stands discharged.

**(SUNIL K. KOTWAL)
JUDGE**

**(T.V. NALAWADE)
JUDGE**

vdd/