

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

WRIT PETITION NO. 10352 OF 2018

Balasaheb s/o Baburao Kachgude,
Age 30 years, Occ. Nil,
R/o Dindurd, Tq. Majalgaon,
District Beed.

... **PETITIONER**

Versus

1. The State of Maharashtra,
Through Secretary
Minister of School Education
Department, Mantralaya,
Mumbai – 32.

2. The Chief Executive Officer,
Zilla Parishad, Parbhani
District Parbhani.

3. The Education Officer (Primary)
Zilla Parishad, Parbhani
District Parbhani.

... **RESPONDENTS**

Mr. Kudale Bhagwan S., Advocate for Petitioner.
Mrs. V.N. Patil Jadhav, AGP for Respondent/State.

**CORAM : R.M. BORDE &
MANGESH S. PATIL, JJ.**
DATE : 12.09.2018

PC. :-

Heard.

2. The petitioner is praying for issuance of directions to the

respondents to appoint him on compassionate ground since his father who was in employment is presumed to be dead. The petitioner contends that his father was in employment of Zilla Parishad as a Teacher and he was found missing since 1991.

3. A suit was presented seeking a declaration as regards the civil death of the father which came to be decreed in the year 2011. The petitioner then approached the Zilla Parishad by tendering several applications since 2011 and prior thereof seeking employment on compassion. The applications were turned down initially for the reason that the policy for appointment on compassionate ground is applicable only in case of death of an employee. The decision has been communicated to the petitioner by the Zilla Parishad in the year 2011-2012. The petitioner has approached this Court belatedly after about six to seven years from the date of rejection of his claim. As has been laid down by the Supreme Court in the matter of **Umesh Kumar Nagpal V/s. State of Haryana and others**, reported in (1994) 4 SCC 138, while dealing with the issue of appointment on compassionate ground, it must be observed that the object of grant of providing appointment on compassionate 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 not entitle his family to such source of livelihood.

4. 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.”

5. 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.”

6. 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.”

7. 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.

8. Having regard to the enunciation of law on the point as well as on consideration of the merits of the claim, we are of the considered opinion that the petitioner is not entitled to claim any relief at this belated stage. The incidence of disappearance of the father occurred in the year 1991. Even if assuming that the decree by the Civil Court declaring the civil death of the father is passed in 2011 the belated claim raised after lapse of considerable period is not liable to be considered.

9. For the reasons as aforesaid, the writ petition being devoid of substance stands rejected.

[MANGESH S. PATIL, J.]

[R.M. BORDE, J.]