

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

**WRIT PETITION NO. 11441 OF 2017**

Sachin @ Sachidanand Nageshrao Patange      .. **Petitioner**  
**Versus**  
The State of Maharashtra and others      .. **Respondents**

Shri D. M. Shinde, Advocate for the Petitioner.

Shri S. G. Karlekar, A.G.P. for Respondent No. 1.

Shri S. B. Pulkundwar, Advocate for Respondent Nos. 2 to 4.

**CORAM : S. V. GANGAPURWALA &**  
**A. M. DHAVAL, JJ.**

**DATE : 9<sup>th</sup> January, 2018**

**PER COURT :**

1. Petitioner seeks appointment on compassionate ground.
2. The petitioner claims to be an adopted son of one Nageshrao Patange, who had worked with respondent Nos. 2 to 4 as Assistant Teacher. He died on 1.6.1996. It appears that the wife of said Nageshrao Patange also died in the same year. The adoption deed relied is a notarised document dated 30<sup>th</sup> October, 1995. The petitioner was nephew of Nageshrao Patange, who subsequently according to the petitioner has adopted him. The name of the petitioner was taken in the Service Book of the deceased as a legal heir.

3. It appears that the petitioner had initially applied for appointment on compassionate ground and the said claim was rejected in the year-2005, having been held ineligible. The petitioner even filed a Civil Suit bearing R.C.S. No. 306 of 2010, claiming multifarious reliefs such as right to claim appointment on compassionate ground. The court refuse the relief to the present petitioner for appointment on compassionate ground and it was held that it is for the respondents herein to consider either to appoint or to refuse.

4. Subsequently again the petitioner applied for appointment on compassionate ground. The same is again rejected on 21.4.2015. The said order is assailed after two years by filing the present writ petition. According to the petitioner he had filed the Review Application and the same is also not considered, as such the delay was caused challenging the original order. The Review Application is rejected on 8<sup>th</sup> February, 2016 and after lapse of one year of the rejection of Review Application the present writ petition is filed.

5. Mr. Shinde, learned advocate submits that the adoption deed is proved in the Civil Court. The petitioner became major in the year-2009 and on attaining the age of majority within limitation the petitioner has applied for appointment on compassionate ground. In view of the policy of the State Government regarding appointment on compassionate ground

the respondents were duty bound to consider the claim of the petitioner for appointment on compassionate ground. The reason given in the impugned order is erroneous and does not stand to any reason. The learned advocate relies on the Judgment of the Apex Court in a case of **Canara Bank and another Vs. M. Mahesh Kumar** reported in **2015 (7) SCC 412**, to contend that the claim of the petitioner is to be considered on the basis of the scheme in operation. The learned advocate also relies on the Judgment of the Apex Court in a case of **Syed Khadim Hussain Vs. State of Bihar** reported in **2006 (9) SCC 195**, and submits that after a person becomes major the claim of said person has to be considered after he attains the age of majority.

6. The learned advocate further submits that, the petitioner is a physically disabled person. There is no other earning member in the family. The petitioner is in need of job and as such respondents be directed to appoint the petitioner.

7. Learned A.G.P. appears for respondent No. 1. Mr. Pulkundwar, the learned advocate appears for respondent Nos. 2 to 4 and submits that the claim of the petitioner after such a long period could not have been considered.

8. Adopted father of the petitioner had died in the year-1996. After a long slumber of 22 years, the claim of the petitioner for compassionate appointment is prayed to be considered.

9. The petitioner it is claimed has become major in the year-2009. From the said date also nine years have lapsed. The very purpose of compassionate appointment is to provide immediate succour to the family of the deceased who has died while in service and who has died in harness. The claim for compassionate appointment is not as of right but is based on equity.

10. The Apex Court in a case of **State of Maharashtra Vs. Pravin** in **Civil Appeal No. 1385 of 2017**, has observed as under:

***“It is well settled that application for compassionate appointment cannot be kept pending for indefinite period and if no vacancy is available within a reasonable time the claim cannot be thereafter entertained.”***

11. Even if we accept as has been observed by the Civil Court that the plaintiff was adopted by deceased Nageshrao Patange in the year-1995 and within a short time thereafter Nageshrao Patange died in the year-1996, it would not be worthwhile to consider the claim of the petitioner for appointment on compassionate ground after a period of 22 years. That would defeat the very purpose of appointment on compassionate ground.

12. In a case of **Syed Khadim Hussain Vs. State of Bihar,** referred to supra, initially the widow of the deceased had submitted application in time before the authorities. The said application was rejected without any reason and after 11 years the appellant became major therein and that application was sought to be considered. The Apex Court directed the respondents – authorities therein to consider the application of the appellant therein.

13. In the case of **Canara Bank and another Vs. M. Mahesh Kumar** referred to supra, the court confirmed the order of the High Court and the authority was directed to consider the application on its own merits.

14. Considering the fact that 22 years have lapsed after the date of the death of the adoptive father of the petitioner in whose place the petitioner is claiming appointment on compassionate ground and considering the observations of the Apex Court in a case of State of **State of Maharashtra Vs. Pravin,** we cannot entertain the claim of the petitioner.

15. The writ petition as such is dismissed. No costs.

**[A. M. DHAVAL, J.]**

**[S. V. GANGAPURWALA, J.]**