

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

WRIT PETITION NO. 12794 OF 2017

Kiran Rajendra Patil

.. Petitioner

Versus

The State of Maharashtra and another .. Respondents

Shri R. R. Mantri, Advocate for the Petitioner.

Shri K. N. Lokhande, A.G.P. for the Respondent No. 1.

Shri N. B. Suryawanshi, Advocate for Respondent Nos. 2 and 3.

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

DATE : 27TH APRIL, 2018.

FINAL ORDER :

. The petitioner assails the communication rejecting the application of the petitioner seeking appointment on compassionate ground.

2. Mr. Mantri, the learned counsel for the petitioner submits that, the petitioner is son of late Ramchandra Patil. Late Ramchandra Patil was serving with respondents since 1989. He died accidental death on 19.09.2014. The petitioner applied for appointment on compassionate ground. The petitioner is possessing qualification of 12th standard and MSCIT. The proposal is rejected relying on clause 7-C of the Guidelines for

Appointment on Compassionate Ground 2007. However, while rejecting the application clause 18-C of the Guidelines has been ignored. The learned counsel submits that, as per clause 18-C of the guidelines, the application for compassionate appointment could not be rejected on the ground that the family of judicial employee has received benefit under various welfare schemes. According to the learned counsel reading Clause 7 and 18 of the guidelines harmoniously, the petitioner is entitled for appointment on compassionate ground. The learned counsel relies on the judgment of the Apex Court in a case **Govind Prakash Verma Vs. Life Insurance Corporation of India and others** reported in (2005) 10 SCC 289.

3. Mr. Suryawanshi, the learned counsel for respondent Nos. 2 and 3 submits that, the financial hardship has to be considered. The fact that the family of the deceased is receiving pension of Rs. 25,823/- per month. Same is more than the total emolument of Group - C employee. The case of the petitioner cannot be considered in view of Clause 7 of the guidelines referred to supra. According to the learned counsel, no error has been committed. The petitioner has also received much compensation amount in motor accident claim. Mr. Suryawanshi, the learned further submits that, clause No. 7 and 18 will have to be harmoniously read. The learned counsel relies on the judgment of the Apex Court in a case of **Umesh Kumar Nagpal**

Vs. State of Haryana reported in (1994) 4 SCC 236 and another judgment in a case of Punjab National Bank and others Vs. Ashwini Kumar Taneja reported in (2004) 7 SCC 265.

4. Appointment on compassionate ground is not a right. It is an exception to the appointments to be made by recruitment by competitive method.

5. The application for compassionate appointment is rejected relying on clause 7-C of the Guidelines. The order does not state the material considered by the authority while rejecting the application. The rules are framed. Considering the rules and the law applicable viz-a-viz the facts of the present case, the authority ought to have taken decision by giving reasons. Though in the affidavit it is tried to be suggested that, the pension received is Rs. 25,823/- per month and is more than the amount received by Group - C employee. The same is not reflected in the order. The reasons now are considered as one of the pillars of principles of the natural justice. Reasons depict application of mind of the authority passing the order. The order bereft of reasons cannot be substantiated.

6. Considering the above, we set aside the impugned communication. The authority shall reconsider the application of

the petitioner for appointment on compassionate ground on its own merits, after considering guidelines and the law applicable expeditiously and preferably within a period of three (03) months from today. It is made clear that, we have not opined on the merits of the matter. The writ petition is disposed of. No costs.

[A. M. DHAVALA, J.]

[S. V. GANGAPURWALA, J.]

bsb/April 18