

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

BENCH AT AURANGABAD.

WRIT PETITION NO.11798 OF 2017

Makarand Ashok Sabale ... Petitioner.

Versus

The State of Maharashtra
and others. ... Respondents.

...
Mr.S.S.Dambe, advocate for the petitioner.
Mr.S.G.Karlekar, A.G.P. for the State.
Mr.V.P.Patil, advocate for Respondent Nos.2 and
3. ...

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

Date : 03.05.2018.

PER COURT :

1. Mr.Patil, learned counsel submits that pursuant to the order of this Court dated 6.4.2018, bailable warrant is served upon Respondent Nos.2 and 3 and they are present before this Court.

2. Mr.Patil, learned counsel submits that he was given the Vakilpatra by Respondent Nos.2 and 3 but as his mother was ill, he could not

attend the Court and file the Vakilpatra.

3. The Respondents have also filed affidavit to the petition. The explanation is accepted.

4. The application filed by the petitioner seeking appointing on compassionate ground is rejected. The ground for rejection is that application is not filed within one year.

5. The father of the petitioner died on 24.1.2010. The application is filed by the petitioner seeking appointment on compassionate ground on 13.5.2011. On the date, the petitioner made the application, the petitioner was minor. The order rejecting the application is passed on 28.6.2017. At that time, the petitioner was major and the application filed by the petitioner was pending. The reliance placed by the Respondent on GR dated 11.9.96 would enure to the benefit of the petitioner. It states that if at the time the employee had died, his heir was minor, on attaining majority can apply within one

year. The application filed by the petitioner was pending with the authority. The petitioner attained the age of majority in the year 2013. At that time, the application was pending with the authority, the authority could have considered the application filed by the petitioner as the same was pending with the Respondents. The order was not passed on the said application and on the day when the order was passed, the petitioner was major. The said application can be treated as an application filed by the petitioner upon attaining majority as it was still pending with the authority.

6. In view of the above, the order holding the petitioner ineligible on the ground that the application was after one year is set aside. The Respondents shall consider the application of the petitioner for appointment on compassionate ground on its own merits in accordance with law and shall not reject it on the count that the same is not filed within limitation.

7. The Writ Petition is disposed of. No

costs.

(A.M.DHAVALA, J.)

(S.V.GANGAPURWALA, J.)

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