

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

WRIT PETITION NO. 9533 OF 2014

01. Smt. Nanda wd/o Bhaskar Dighule
Age : 34 years, Occu: Household,
R/o 555, Prakash nagar, Galli No.5,
Aurangabad, Dist. Aurangabad .. PETITIONER

versus

01. The State of Maharashtra, through
its Secretary,
School Education Department,
Mantralaya, Mumbai – 32

02. The Deputy Director of Education,
Aurangabad Division, Aurangabad

03. The Education Officer (Secondary),
Zilla Parishad, Aurangabad

04. The Secretary/President,
Dnyandeep Shikshan Sanstha,
Prakash Nagar, Aurangabad

05. The Headmaster,
Dnyandeep Vidyalaya,
Prakash Nagar, Aurangabad
Dist. Aurangabad

.. RESPONDENTS

Mr S. G. Rudrawar, Advocate for petitioner

Mr S. N. Kendre, Asstt. Govt. Pleader for respondents no. 1 to 3

Mr A. M. Nagarkar, Advocate for respondent no. 4

CORAM : SUNIL P. DESHMUKH AND
S. M. GAVHANE, JJ

DATE : 5th December, 2018

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith. Heard learned counsel
for appearing parties finally by consent.

2. Petition has been moved seeking appointment on compassionate ground since petitioner's husband died while in service in 2010. According to the petitioner, she had pursuant to scheme for appointments on compassionate ground made applications with management of the school. However, the applications have not been considered.

3. Learned counsel for respondent no. 4 – management submits that petitioner's husband had been working as a clerk and petitioner is seeking appointment on class – IV post particularly that of peon and there is no subsisting vacancy in said post and further that there had been ban of government on making appointments.

4. Learned counsel for petitioner states that ban on appointments on compassionate ground has been recently lifted.

5. Learned Assistant Government Pleader states that the position would have to be verified.

6. Learned counsel for petitioner tenders across decision by division bench of this court rendered on 09-04-2018 in writ petition no.3630 of 2017 [*Sadhana Yuvraj Pol vs. New Model Education Society through its Chairman and others*] and requests that since respondent no. 4 claims that there is no vacancy, petitioners' case be met with same treatment as in said decision dated 09-04-2018.

7. Division bench in the decision referred to above has observed that if vacancy does not exist with respondent no. 2, in such a case, government resolution dated 31-12-2002 has to be followed.

8. Having regard to aforesaid undisputed circumstances, we deem it appropriate to dispose of present petition in similar terms as appearing in paragraph 3 of order dated 09-04-2018 in writ petition no. 3630 of 2017 reading, thus:

" 3. The respondent No.1/Management shall forward proposal to the respondent No.2. The respondent No. 2 after considering that the petitioner complies with all the conditions, shall place the petitioner in the wait list of the candidates to be absorbed on compassionate ground as per the seniority. In case post becomes available with the respondent No.1, then the petitioner can be absorbed in the respondent No.1 or as per seniority is required to be absorbed as per the conditions enumerated in the G.R. dated 31.12.2012. The respondent No. 1 shall forward the proposal to the respondent No. 2 within a period of four (04) weeks from today. Needless to state that ban on recruitment does not apply to the appointment on the compassionate ground. The writ petition is disposed of. No costs. "

9. In view of aforesaid, respondent no. 4 – management in present matter shall forward proposal to respondent no. 3. Respondent no. 3 after considering that the petitioner complies with all conditions shall place her in the wait list of candidates for appointments on compassionate ground. In case post is available with respondent no.4, petitioner may be accommodated on the

same or as per seniority is required to be accommodated as per conditions in government resolution date 31-12-2002. Respondent no. 4 to forward proposal to respondent no. 3 within a period of four weeks from today.

10. Rule made absolute in aforesaid terms.

11. Writ petition is disposed of.

S. M. GAVHANE
JUDGE

SUNIL P. DESHMUKH
JUDGE

pnd/-