

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.3680 OF 2018

Ananda s/o Ashok Jathar

Petitioner

Versus

The State of Maharashtra & others

Respondents

Mr.Niteen V. Gaware, advocate for the petitioner.
Mr.P.N.Kutti, A.G.P. for respondents.

**CORAM : R.M.BORDE &
K.K. SONAWANE, JJ.
DATE : 11th APRIL, 2018**

PER COURT:

1 The petitioner is objecting to the communication dated 05.11.2012, issued by the Respondent-Department turning down his request for making appointment on compassionate ground.

2 The father of the petitioner was in employment with the Irrigation Department. He met with accidental death on 12.06.1996 while in employment. The mother of the petitioner tendered an application seeking employment on compassionate ground on 01.07.1996. The name of mother of the petitioner was struck down from the waiting list on 24.10.2008 since she attained the age of 40 years. The petitioner thereafter tendered an application seeking inclusion of his name in the waiting list maintained for offering employment on compassionate ground. Request made by the petitioner for consideration of his claim for employment on compassionate ground has been turned down in by

way of communication dated 05.11.2012, which communication is a matter of challenge in this petition. The petitioner has approached this Court belatedly by six years.

3 Apart from this, there is no provision in the scheme prescribing substitution of name of dependent. The sole bread-earner has passed away in 1996, whereas, on second occasion, petitioner has lodged the claim in the year 2010. The belated claim lodged by the petitioner claiming substitution of his name in place of his mother, whose name was already struck down from the waiting list, is not maintainable. Appointment on compassionate ground is made 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 does 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 merits of the claim, we are of the considered opinion that the petitioner is not entitled to claim any relief at this belated stage.

9 Writ Petition is devoid of substance. Hence stands dismissed.

K. K. SONAWANE
JUDGE

R.M.BORDE
JUDGE