

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.8048 OF 2017
(Kalimunissa Begum w/o Mukaddar Ali Vs.The State of Maharashtra
and others)

Mr.Mukund Ambekar, Advocate for the petitioner.
Mr.A.D.Wange, Advocate for respondent No.2.
Mr.S.K.Tambe, AGP for respondent No.1.

(CORAM : Ravindra V.Ghuge, J.)
DATE : 08/08/2018

PER COURT :

1. The petitioner is the widow of the deceased Mukaddar Ali who was the former employee of respondent No.2. He joined the respondent MSRTC as a Driver on 07/08/1976. His license was to expire on 09/08/2008. He moved an application for renewal of license to the Deputy R.T.O.,Hingoli on 07/08/2008 and paid the license renewal fee on 08/08/2008. His license expired on 09/08/2008. He was dismissed from service on 10/09/2009 as he did not have a driving license. He died on 26/12/2009. Neither the deceased nor his legal heirs have challenged the dismissal before any Court. In fact, the LR's moved the Labour Court in Application (Payment of Gratuity Act) No.11 of 2013 and have received the gratuity amount as well as all retiral benefits.

2. The widow of the deceased has filed this petition on 20/10/2016 setting forth the following prayers :-

- “1. The writ petition may kindly be allowed.*
- 2. The order of the Dy.Regional Transport Officer, Hingoli, in the case No.521/License/Dy.RTOHNG/09 dated 04/07/2009 may kindly be quashed and set aside.*
- 3. In the case of NoPA/M.R./K.1/APPEAL/2009/OUTWARD NO.13205 order passed by the Ld.Transport Commissioner, Mumbai, on 23/11/2009, may kindly be quashed and set aside.*
- 4. The order passed by the Divisional Controller, MSRTC, Parbhani, may kindly be quashed and set aside and further be directed to declare that the deceased Mukaddarali Muniroddin Siddiqui died during the course of employment on 26/12/2009 and further be directed to release all the benefits to the employee died during the course of employment.*
- 5. Any other suitable and equitable relief or which the petitioner is entitled may kindly be awarded.”*

3. It is orally submitted that the widow seeks the notional renewal of license of the deceased so that it can be presumed that her husband was wrongfully dismissed from service. If she succeeds, her son will get compassionate employment with the M.S.R.T.C.

4. The learned Advocate for the MSRTC submits that, firstly this

petitioner has approached this Court after 7 years. Secondly, the son of the petitioner and the deceased cannot be considered for compassionate appointment after 10 years of the removal of the deceased from service, even if it is presumed that his dismissal would be set aside. The law laid down by the Hon'ble Apex Court would not permit compassionate appointment after 9 years.

5. The learned AGP submits that even if the order refusing the renewal of license to the deceased is set aside in view of the judgment delivered by the learned Division Bench of this Court dated 25/11/2008 in WP No.6931/2008, Pandharinath Vs. The State of Maharashtra, the fact remains that the petitioner is not interested in the renewal of license, but is interested in seeking compassionate appointment for her son who is said to be a practicing Advocate at Kalamnuri and Hingoli.

6. In the judgment delivered in Pandharinath (supra), this Court has concluded that the R.T.O. Office at Akola had committed an error in refusing renewal of license of Pandharinath on the ground that it was originally granted 20 years ago when he was 3 ½ months short of completing 20 years which is required for driving a heavy motor / transport / public transport vehicle. Even in the instant case, the

deceased have obtained license on 09/08/1976. It was only during his last renewal on 08/08/2008 that an anonymous letter was written to the Deputy R.T.O, Hingoli which revealed that he was granted the license in 1976 when he was 1 year short of completing 20 years.

7. Notwithstanding the above, as this petition has been filed belatedly after 7 years and even if this petition was to be allowed, neither the petitioner who is 52 years of age today nor her son could get compassionate appointment after 9 years of the demise of the deceased. There is no challenge to the dismissal of the deceased from employment.

8. It also cannot be ignored that all retiral benefits have been granted to the widow by the Corporation and her son would not be in a position to acquire compassionate appointment after 9 years of the death of Mukaddar Ali.

9. Since no purpose is likely to be served by entertaining this petition for the above stated reasons, this petition is dismissed.

(Ravindra V.Ghuge, J.)

Kranti
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Shekatkar

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