

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

WRIT PETITION NO. 12279 OF 2016

**SHEETAL LATE SHARAD PANDAV
VERSUS
THE CENTRAL ADMINISTRATIVE TRIBUNAL MUMBAI BENCH
REPRESENTING BY ITS REGISTRAR MU**

Mr.Suresh B. Deshmukh, Advocate for the petitioner
Mr.B.B.Kulkarni, Advocate for respondent Nos.1 and 2

**CORAM : S.V. GANGAPURWALA &
S.M.GAVHANE, JJ.**

DATED : 28.08.2018

P.C. :-

. The claim of the petitioner for appointment on compassionate ground is negatived by the department. Aggrieved thereby the petitioner has filed original application before the Central Administrative Tribunal. The same is rejected.

2. Mr. Deshmukh, learned counsel appearing for the petitioner submits that the father of the petitioner died on 30.06.2006. Immediately the petitioner filed an application for the appointment on compassionate ground. The application filed by the petitioner was negatived. The petitioner approached the Central Administrative Tribunal by

filing original application. The Original Application of the petitioner was allowed and the respondent was directed to re-consider the case. The petitioner was also directed to show that the mother of the petitioner was dependent upon the petitioner. Learned counsel submits that the married daughter is also entitled to the benefit of the scheme for the appointment on compassionate ground. Learned counsel submits that the petitioner is the only daughter and the mother is dependent upon the daughter. The declaration to that effect has been given. But the same has not been considered. It is erroneous on the part of the respondent to claim that there is no post available to be filled in through compassionate appointment. The tribunal failed to consider the said aspect. Learned counsel appearing for the respondents supports the order.

3. The tribunal has considered that only 5% posts can be filled in by compassionate appointment. Considering the same the post to be filled in by compassionate appointment is not available. It has been observed that as against the 90% quota for direct recruitees as on 01.04.2007, working strength was 480, 4 members of staff are in excess and in

next year staff was exceeding by 11 persons. The petitioner has to be considered for 5% posts reserved to be filled from compassionate appointments. In view of excess post filled in vacancy did not exist for appointing persons on compassionate ground.

4. Be that as it may the petitioner is a married daughter. Though there is no embargo for considering the case of the married daughter for appointment on compassionate ground, it has been observed that the husband of the petitioner is Engineer and serving. The petitioner resides with the husband and not with the mother. Mother is receiving the pension of Rs.22,701/- apart from the other retiral benefits that has been received. She is not dependent upon the petitioner. The mother of the petitioner has own house at plot No.7A, Shrinagar Housing Society, Ulkanagari, Aurangabad and that her condition is not penurious.

5. The object for appointment on compassionate ground is to ameliorate the economic condition of the family of person dying in harness. It is to provide immediate succour to the family of such a

person who has died while in service. The father of the petitioner died in 2006. As observed above the petitioner is married daughter living with her husband who is engineer and in service and mother is residing independently in the house and drawing pension of Rs.22,701/- and for that she is not dependent.

6. For the aforesaid reasons, we do not find any error committed by the tribunal in passing the order.

7. The writ petition stands disposed of. No costs.

[S.M.GAVHANE,J.]

[S.V. GANGAPURWALA,J.]