IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

39 WRIT PETITION NO. 663 OF 2016

SAGAR BHIMRAO SONWANE ..PETITIONER

VERSUS

THE UNION OF INDIA AND ANOTHERS ..RESPONDENTS

…

Mr. Satej S. Jadhav, Advocate for the Petitioner.
Mr. Manish N. Navandar, Advocate for the Respondents.

…

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

DATED : 18th SEPTEMBER, 2018.

PER COURT:-

1. Mr. Jadhav, learned counsel for the petitioner submits that the petitioner had applied for appointment on compassionate ground on account of the death of his father. The father of the petitioner died on 18.12.2008. At that time he was in service with respondent. The mother of the petitioner namely Rahubai had married with the father on 29.09.1992 after his father had divorced the first wife. From the first marriage the deceased Bhimrao had three sons. The petitioner had filed alongwith his application no objection given by the sons of the deceased Bhimrao from his first marriage. The learned counsel submits that claim of the petitioner for appointment on compassionate ground is rejected solely on the

ground that the petitioner is the son from second wife. According to the learned counsel, though the mother of the petitioner was the second wife, the marriage was legal and valid, as the said marriage was performed after divorce from the first wife by deceased Bhimrao. The learned counsel submits that the respondents have sanctioned pension and pensionary benefits to the mother of the petitioner. The reason given for negativing the application of the petitioner is erroneous.

2. Mr. Navandar, learned counsel for the respondents submits that in view of the circular dated 02.01.1992, the petitioner is not entitled for an appointment on compassionate ground, as the second widow or her wards are not considered for appointment on compassionate ground. The learned counsel also relies on the order passed by the Division Bench of this Court in Writ Petition No.3374 of 2014 dated 31.07.2015 contending that second widow or wards of the second wife are not entitled for appointment on compassionate ground.

3. We have considered the submissions canvassed by the learned counsel for the respective parties.

4. We cannot digest the arguments of the respondents that the mother of the petitioner is given the pension and pensionary benefits and the petitioner is held not entitled for

appointment on the compassionate basis on the ground that he is the son from the second wife.

5. The case of the petitioner is that the deceased Bhimrao had married her mother after taking divorce from first wife. If that be so, it cannot be termed that the mother of the petitioner was the second wife of deceased Bhimrao. Be that as it may, the respondents have advanced the pensionary benefits to the mother of the petitioner, thereby treating the marriage to be legal and valid. In that scenario, the ground put forth in the order rejecting the claim of the petitioner would be improper and erroneous.

6. In light of the above, the impugned communication dated 27.2.2012 is quashed and set aside. The respondent shall reconsider the application of the petitioner for appointment on compassionate ground on its own merits, expeditiously and preferably within four (04) months.

7. Writ Petition is accordingly disposed of. No costs.

(S. M. GAVHANE)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

Devendra/September-18

Devendra Nandkumar Kale
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Date: 2018.09.24 11:10:26 +0530