

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7551 OF 2014

Shri Sudarshan Kalyan Gholve and anr. .. Petitioners
Vs.
The State of Maharashtra and ors. .. Respondents

Mr.B.G.Ligade i/b Mr.D.S.Patil, for the Petitioners.
Mrs.Rupali M. Shinde, AGP for Respondent No.1 – State.
Mrs.Anjali R. Shiledar-Baxi, for Respondents No. 2 & 3.

**CORAM : R.M.SAVANT &
M.S.KARNIK, JJ.
DATE : 17th SEPTEMBER, 2018**

P.C. :

The above Writ Petition has been filed seeking compassionate appointment in the Respondent No.3- Maharashtra State Electricity Distribution Company Ltd. The petitioners herein are the heirs of one Shri Kalyan Sudam Gholve who was working as a helper with the Respondent No.3. The Petitioner No.1 is his son. It seems that the said Kalyan Gholve had tendered his resignation on medical grounds sometime in the beginning of May 2006. Since the said

resignation was not accompanied by the medical certificate as required under the Correction Slip issued under the Service Regulations 2005 i.e. which are in the nature of Standing Orders of the Respondent No.3, the Respondent No.3 directed the said Kalyan Gholve to make an application accompanied by the necessary medical certificate. It seems that the said Kalyan Gholve thereafter tendered his resignation on 20/06/2006 on personal grounds. The said resignation was treated as a one month's notice and resignation therefore came into operation after a period of 30 days i.e. in July 2006. Thereafter, the said Kalyan Gholve expired on 31/07/2006. The benefits which the said Kalyan Gholve was entitled to for rendering service in Respondent No.3 were calculated and the same were paid over to his heirs some time in the year 2011 which benefits were accepted by the Petitioners. However prior thereto the Petitioners had filed an application seeking appointment on compassionate grounds. Thereafter the Advocate's notice was also given on 19/03/2013 to the Respondent No.3 seeking appointment of the Petitioner No.1 on compassionate grounds.

The application filed by the Petitioners seeking appointment on compassionate grounds was rejected by the Respondent No.3 and the said rejection was communicated to the Advocate of the Petitioners vide letter dated 22/04/2013. It was informed that the application of the Petitioners cannot be considered as the father of Petitioner No.1 - Kalyan Gholve had resigned on personal grounds and had not died whilst he was in service or had resigned on medical grounds. It is the said decision of the Respondent No.3 which is sought to be taken exception to by way of the above Writ Petition. By order dated 06/07/2018, a Division Bench of this Court had directed the Respondents No.2 & 3 to produce the service record of the Petitioners. The learned Counsel appearing for Respondents No.2 & 3 - Mrs.Baxi stated that the applications filed by the Petitioners are not available at this length of time, but she has produced the service book of the said Kalyan Gholve. We have perused the service book of the said Kalyan Gholve and entries made therein relating to the acceptance of the resignation of the said Kalyan Gholve. On such perusal, we do not find anything in the said entries so as to

doubt the veracity of said entries made by the concerned Officers of the Respondents No.2 & 3. Perusal of the said entries disclose that they have been made in the year 2006 after the acceptance of the resignation of the father of petitioner No.1 i.e. the said Kalyan Gholve. In our view, therefore, having regard to the fact that the said Kalyan Gholve i.e. father of Petitioner No.1 had resigned for personal reasons, the application of concerned Correction Slip issued under the Service Regulations 2005 cannot be faulted with. The Petitioners are therefore not entitled for appointment on compassionate grounds.

2. In that view of the matter, no case for interference in our writ jurisdiction under Article 226 of the Constitution of India is made out. Writ Petition is accordingly dismissed.

(M.S.KARNIK, J.)

(R.M.SAVANT, J.)