

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 11426 OF 2014

Sou.Sharda Balasaheb Dhende	.. Petitioner
Vs.	
State of Maharashtra and ors.	.. Respondents

Mr.Mahindra Deshmukh I/b Ms.Suvarna S.Yadav, for the
Petitioner.
Mrs.Rupali M.Shinde, AGP for Respondents No.1 to 3 - State.

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

P.C. :

. The above Writ Petition has been filed for setting aside the communications dated 23/07/2014 and 07/08/2014 issued by the Respondents. By the said communication dated 23/07/2014, the Petitioner has been informed that she would not be entitled to appointment on compassionate grounds being the married daughter of one Babytai Yashwant Kamble who was employed as a Cook in the Respondent No.3.

2. By the subsequent communication dated 07/08/2014, the Petitioner was informed as regards the course of action that was followed in respect of the Petitioner's application for appointment on compassionate grounds.

3. It is not necessary to burden this order with unnecessary details. Suffice it would be to state that the Petitioner is the daughter of one Smt. Babytai Yashwant Kamble who was working with Respondent No. 3 as a Cook. The said Babytai Kamble expired on 09/05/2008. It seems that the Petitioner thereafter immediately made an application for appointment on compassionate basis in view of the death of her mother i.e. the said Babytai Kamble. The said application was pending till 23/07/2014 on which day through communication bearing the said date addressed to the Petitioner, which as indicated above informed the Petitioner as regards her dis-entitlement for appointment on compassionate grounds being a married daughter. The said communication adverts to the Government Resolution dated 26/02/2013 wherein such an

impediment is placed in the way of a married daughter. The said resolution was the subject matter of proceedings before Maharashtra Administrative Tribunal, Mumbai in which Maharashtra Administrative Tribunal observed that unless the said resolution dated 26/02/2013 is withdrawn within a particular time frame, the same otherwise would stand to be set aside/cancelled after a period of one month. Accordingly, the said resolution dated 26/02/2013 came to be set aside/cancelled and the said Government came out with a new policy decision which was contained in the Government Resolution dated 17/11/2016, by which resolution, the married daughters are now made entitled to seek appointment on compassionate grounds. In the instant case, there can be no dispute about the fact that the Petitioner is a married daughter. In the light of the Government Resolution dated 17/11/2016, we are of the view that the said communication dated 23/07/2014 is required to be quashed and set aside and the matter is required to be relegated back to Respondent No.2 for a de novo consideration of the Petitioner's application. Hence, the

following directions.

i) The impugned communication dated 23/07/2014 would stand quashed and set aside. The Petitioner's application for compassionate appointment would stand relegated back to the Respondent No.2 for a de novo consideration.

ii) Respondent No.2 to consider the Petitioner's application on the touchstone of the Government Resolution dated 17/11/2016 which makes married daughters eligible to seek compassionate appointment.

iii) The Petitioner's application for compassionate appointment would be considered if the Petitioner is otherwise fulfilling the requirements of the said Government Resolution dated 17/11/2016.

iv) On remand the Petitioner's application to be considered latest by 30/11/2018 and the decision that would be taken to be communicated to the Petitioner.

4. The Petition is allowed to the aforesaid extent and is disposed of.

(M.S.KARNIK, J.)

(R.M.SAVANT, J.)