

ISM

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 4979 OF 2014

Mrs. Prasadika Dhanaji Gawade

.....Petitioner

V/s.

The State of Maharashtra and another

.....Respondents

Mr. Nitesh V. Bhutekar for the petitioner

Mr. V. S. Gokhale AGP for the State

Mr. Deepak R. More for respondent no. 2

**CORAM : SHANTANU KEMKAR AND
NITIN W. SAMBRE, JJ.**

DATE : JULY 16, 2018.

P.C.

Heard.

2 Respondent no. 2 Corporation created under Bombay Provincial Municipal Corporations Act in which father of the petitioner, was in the employment of Octroi Department as Inspector, expired on 08/10/1996.

Iresh
Siddharam
Mashal

3 The father of the petitioner named late Kisan since was in the

Digitally
signed by Iresh
Siddharam
Mashal
Date:
2018.07.19
17:23:59
+0530

employment of respondent-Corporation and claimed to have died during his employment, leaving behind the petitioner-his daughter and wife, in harness, the petitioner applied for grant of employment on the compassionate ground. It is the case of the petitioner that she got married on 24/05/1992 during the life time of her father. By virtue of Government Resolution dated 26/10/1994, she was entitled for appointment on compassionate ground. According to her, other legal heir i.e. mother is residing with her and in view thereof, the petitioner applied for appointment on compassionate ground. She then would urge that though she requested the respondent, seeking appointment on compassionate ground on 20/02/1997, same was illegally rejected on 03/04/1997.

4 According to her, vide Government Resolution dated 26/02/2013, and based on the Division Bench Judgment of this Court in the matter of **Aparna vs. ASST. Superintendent Engineer, Sangli and others**¹ she claimed to be entitled for appointment. The petitioner also draws support from the aforesaid judgment by relying upon the Government Resolution and the observations made in para

¹ [2011 (5) Mh.L.J. 290]

7, 9-12 & 16. An additional submission is also made that though her mother is receiving family pension, same is not sufficient to maintain herself.

5 *Per contra* the learned AGP and the learned counsel for respondent no. 2 would oppose the claim as according to them, the petitioner cannot claim appointment on compassionate ground as of right. Respondent submits that after the death of father of the petitioner on 08/10/1996, on 03/04/1997, she was already informed that she was not entitled for appointment, being a married daughter. Both the counsel would submit that there are no financial constraint. According to them as the petitioner and her mother could survive for last about twenty years, the very object of the scheme of supporting the family in harness will be frustrated, in case if the petition is allowed. They sought dismissal of the petition.

6 The following dates are required to be taken note of. The petitioner got married on 24/05/1992 when her father Kisan was in the employment of respondent no. 2, who died on 08/10/1996. The

petitioner's prayer for grant of appointment on compassionate ground was already rejected on 03/04/1997 which order was never challenged by the petitioner and has rather accepted the same.

7 After the death of the father of the petitioner on 08/10/1996 and rejection of prayer for grant of appointment on compassionate ground on 03/04/1997, the petitioner has not taken any steps till 2014. Petitioner, claiming appointment on compassionate ground by relying upon the Judgment of this Court in the matter of **Aparna** [*cited supra*] and Government Resolution, sought indulgence at belated stage. No satisfactory explanation is coming forward from the petitioner for the delayed act of approaching this Court.

8 It is the claim of the petitioner that her father Kisan died in harness and she is taking care of her widowed mother. If the aforesaid contentions of the petitioner are to be appreciated, it is required to be noted that the scheme of grant of employment on compassionate ground is intended to achieve the object of extending financial help wherein the employee dies in harness and the family

is in financial distress. From the factual matrix of the present case, it is required to be noted that after the death of the father of the petitioner, she though applied for grant of appointment on compassionate ground, same was rejected on 03/04/1997 and it is almost for last 20 years, the petitioner could survive without any financial assistance from the respondent. As such, the claim of the petitioner on merit that she is entitled for appointment on compassionate ground cannot be inferred to suit the object of the said scheme. Apart from above, mother is getting family pension is also required to be taken note of.

9 Though the petitioner was right in contending that she, being a married daughter ought not to have been excluded from the zone of consideration for appointment on compassionate ground. However, considering the fact that the appointment on compassionate ground is claimed after the lapse of period of about almost 20 years and the earlier rejection of 1997 was never challenged. We hardly see any cause which warrants interference.

10 The writ petition, in our opinion, lacks merit and the same stands disposed of.

[NITIN W. SAMBRE, J.]

[SHANTANU KEMKAR, J.]