

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

WRIT PETITION NO. 13932 OF 2017

State of Maharashtra and ors. ...Petitioners
Versus
Smt. Anusaya V. More and anr. ...Respondents

Mr. L.M. Acharya, Spl.Counsel a/w. Mr. C.P. Yadav, AGP for
the State / Petitioners.
Mrs Vaishali Jagdale, for the Respondent.

**CORAM : SMT. V. K. TAHILRAMANI, Acting C.J. &
M. S. SONAK, J.**

DATE : 18.07.2018.

ORAL JUDGMENT:

- 1] Heard learned counsel for the parties.
- 2] Rule. With the consent of and at the request of learned
counsel for the parties, Rule is made returnable forthwith.
- 3] The challenge in this petition is to the impugned
judgment and order dated 24.10.2016 made by the
Maharashtra Administrative Tribunal (MAT), Mumbai in O.A.
No.604 of 2016. The operative portion of the impugned
judgment and order at paragraph 7 reads as follows:

*"7. Considering the facts and circumstances of the
present case, the Applicant no.2 is entitled to be*

considered for compassionate appointment, instead of his mother and it will be equitable, if his name is included at the same place in waiting list, where list, where his mother's name was placed. The Respondents are directed to include the name of the Applicant no.2 in the waiting list for compassionate appointment in Group 'D' category, where his mother's name was included and he may be considered for such appointment as per his turn in the waiting list. This O.A. is allowed accordingly with no order as to costs."

4] After the matter was argued for some time, Mr. L.M. Acharya, learned Special Counsel for the State - petitioners, on the basis of instructions from the State - petitioners, made a statement that the petitioners were not averse to including the name of the respondent No.2 in the list of candidates eligible for compassionate appointment, on the basis of the respondent's application dated 11.2.2014. However, Mr. Acharya submitted that the direction in the impugned judgment and order that the name of the respondent No.2 be included at the same place in the waiting list where the name of the respondent No.1 - mother was placed may be set aside. He points out that there are several candidates on such lists and the grant of any priority to the respondents will not be justified in the facts and circumstances of the present case.

5] Ms Vaishali Jagdale, learned counsel for the respondents, on the basis of instructions from the respondents, submits that the respondents are agreeable to the course of action suggested by Mr. Acharya. Ms Jagdale, however submits that the petitioners may be directed to address the necessary intimation to the respondents, confirming that the name of respondent No.2 is indeed included in the list maintained for grant of compassionate appointment, on the basis of respondent's application dated 11.2.2014.

6] In view of the aforesaid, we modify the impugned judgment and order and direct the name of respondent No.2 Shubham V. More be included in the waiting list for compassionate appointment in Group - D category at the appropriate position taking into consideration the date of the respondents' application dated 11.2.2014. This means that the name of respondent No.2 shall be entered into waiting list as directed by the MAT, but not in place of respondent No.1 - his mother's name. Rather, the name of respondent No.2 will be entered in the said list by according it due seniority on the basis of application dated 11.2.2014.

7] The aforesaid exercise is to be carried out by the petitioners within four weeks from today and necessary intimation to be communicated to the respondents within a period of four weeks thereafter.

8] Rule is disposed of in the aforesaid terms. There shall be no order as to costs.

9] All concerned to act on the basis of authenticated copy of this order.

(M.S. SONAK, J.)

(ACTING CHIEF JUSTICE)

Dinesh
Sadanand
Sherla

Digitally signed
by Dinesh
Sadanand Sherla
Date: 2018.07.20
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