

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

WRIT PETITION NO.362 OF 2015

SMT. SHAIKH HASINA WD/O. SHAIKH GANI LALA
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. Anant R. Devakate.

AGP for Respondent No.1 : Mr. A. V. Deshmukh.

Advocate for Respondent No.2 : Mr. Kartik D. Mundhe.

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CORAM : **T. V. NALAWADE &
SUNIL K. KOTWAL, JJ.**

DATE : 14th January, 2019.

ORDER: (Per T. V. Nalawade, J.)

. The petition is filed for the relief of giving direction to give appointment to the Petitioner on compassionate ground and also for relief of setting aside the communication dated 13th August, 2013 made with the Petitioner by which it was informed that the application on compassionate ground filed by the Petitioner was rejected.

2 Both the sides are heard.

3 The submissions made and record show that the husband of Petitioner, Shaikh Gani Lala was working as Assistant Teacher in

Zilla Parishad School, Muddesh Wadgaon, Tahsil Gangapur, District Aurangabad. While in service, the husband of the Petitioner died on 2nd March, 2010. As per the Government Policy, the Petitioner applied for getting appointment on compassionate ground on 20th August, 2010. She has passed S.S.C. The representation is rejected on the ground that she is having three children, the deceased teacher was having three children and as per the Government Policy applicable to the Zilla Parishad employees, due to this circumstance, compassionate ground employment cannot be given.

4 The only argument of the learned counsel for Petitioner is that there is a discrimination in the policy of the State Government as against employees of the Zilla Parishad and the Government employees. It was submitted that the Government Resolution issued in respect of the employees of private educational institutions, does not show that the successor of deceased employee cannot get employment on compassionate ground if the deceased had three issues. The two Government Resolutions on record, Government Resolution in respect of the Government employees, which are made applicable to the Zilla Parishad employees are dated 26th October, 1994 and 28th March, 2001 and the Government Resolution in respect

of employees of private institution is dated 31st December, 2002. It is true that in the Government Resolution issued in respect of employees of private institution, there is no specific condition that the deceased must not have left behind three children, but this additional condition for employees of the Zilla Parishad cannot be called as discriminatory. When it is the policy of the Government to see that there is population control and there is sustained development of the country, the Government can impose such service conditions on its employees. This condition can be made applicable to the employees of the local bodies discharging the functions of the State. Such condition is possible in view of Article 19 of the Constitution of India. So, this Court holds that it cannot be said that the Government employees are discriminated. So, the petition stands dismissed.

[SUNIL K. KOTWAL, J.]

[T. V. NALAWADE, J.]

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