

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

WRIT PETITION NO. 3738 OF 2018

Nivrutti S/o. Laxman Patil

.... Petitioner

Versus

The State of Maharashtra & Ors.

.... Respondents

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Shri. Vikrant P. Raje, Advocate for the petitioner

Shri. K. B. Jadhavar, AGP for respondent/State

Shri. Ajay G. Talhar, Advocate for respondent Nos. 3 and 4

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**CORAM : S. V. GANGAPURWALA &
A. M. DHAVAL, JJ.**

DATE : 13TH MARCH, 2019

ORAL ORDER:

1. The application of the petitioner seeking appointment on compassionate ground is rejected. Aggrieved thereby, the present petition.

2. The learned counsel for the petitioner submits that, on erroneous grounds the application of the petitioner is rejected. The father of the petitioner died while in service. As such the restriction that one should not be beyond 55 years as provided in Schedule 1 of the Government Resolution dt. 31.12.2002, would not apply. Clause 2B of Schedule of the Government Resolution dt. 31.12.2002 applies

only if a person has to take premature retirement for medical reasons and he had crossed 55 years of age for Class-III and 57 years for Class-IV.

3. The financial condition of the petitioner is not good. The property shown by the respondents has been sold by the joint family of the petitioner on 09.02.2019. The two tractors which are said to be owned by the petitioner are under debt.

4. Shri. Ajay Talhar, learned counsel for respondents No. 3 and 4 submits that, the reason has been rightly mentioned while rejecting the application of the petitioner for compassionate appointment so also the financial condition of the petitioner is sound. He was not dependent upon the deceased. The wife of the petitioner is also serving and earning.

5. A person can claim appointment on compassionate ground only if he was dependent upon the deceased and the purpose of compassionate appointment is to provide immediate succor to the family of the deceased dying in harness. The respondents certainly will reconsider clause 2B of the Schedule to Government Resolution dt. 31.12.2002. The father of the petitioner was aged more than 57 years at the time of his death. Whether a different analogy is to be

applied to a person who has retired and to a person who dies after the age of 57 years will have to be considered by the respondents, so also the financial condition of the petitioner is also required to be considered. The petitioner will have to show that he was dependent upon the deceased. Unless the dependency is shown by the petitioner, he cannot claim appointment on compassionate ground. All these factors will have to be considered by the authorities on the basis of the documents those would be filed by the petitioner.

6. In light of the above, the respondents shall reconsider the case of the petitioner seeking appointment on compassionate ground. The petitioner may produce on record whatever documents he possesses to substantiate his claim. The same shall be reconsidered expeditiously, preferably within four months.

7. The Writ Petition is accordingly disposed of. No costs.

[A. M. DHAVALE]
JUDGE

[S. V. GANGAPURWALA]
JUDGE

Punde