

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

WRIT PETITION NO. 5969 OF 2018

Ujwala Ravindra Khairnar .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri Apparao Yenegure, Advocate for the Petitioner.

Mrs. M. A. Deshpande, Addl.G.P. for the Respondent No. 1.

Shri Prakash Nemichand Jain, Advocate for the Respondent No. 2.

Shri Suresh Pidgewar, Advocate for the Respondent No. 3.

**CORAM : S. V. GANGAPURWALA AND
MANGESH S. PATIL, JJ.**

DATE : 19TH JUNE, 2019.

FINAL ORDER :

. Mr. Yenegure, the learned advocate for the petitioner submits that, the petitioner is widow of deceased Ravindra, who was working as junior clerk with the respondent No. 2. The respondent No. 3 is step son of the petitioner. As per Government Resolution dated 20th May, 2015 widow has the first right to claim appointment on compassionate ground. According to the learned counsel, the respondent No. 3 is also not maintaining the petitioner and other family members.

2. Mr. Jain, the learned counsel for the respondent No. 2 submits that, as per the Government Resolution dated 21.09.2017, the appointee has to file an affidavit with the effect that, he is ready to maintain the family members of the deceased employee who were dependent on deceased employee and if he failed to maintain the family members and in future any such complaint would be received, then he can be terminated also.

3. Mr. Pidgewar, the learned advocate appears for the respondent No. 3 and submits that, the respondent No. 3 is unemployed and upon getting appointment would certainly maintain the petitioner and other family members.

4. We have also heard the learned Additional Government Pleader.

5. The Government Resolution dated 20th May, 2015 does not give preferential right to appoint a person on compassionate ground upon death of an employee. One member of the family can be appointed. The liability to maintain would arise after appointment order is issued to a person. The respondent No. 2 has filed an affidavit. The part of the affidavit reads thus :

"07. The deponent submits that, as per content of the para no. 10, considering the misuse of the policy of compassionate appointment and

after considering the guidelines issued by the Hon'ble High Court and Hon'ble Apex Court, the Government Resolution Dat. 21/09/2017 and thereby framed the comprehensive ground. In the said Govt. resolution also it is made clear that the appointee should file his affidavit that, he is ready to maintain the family members of deceased employee who were depend on deceased employee. It is made clear that, if he failed to maintain the family members and in future any such complaint would be received, then he can be terminated also. It is to be clear that, the said provision applicable when on the basis of compassionate ground appointee is appointed permanently for the said post. In present situation the respondent no. 3 still not appointed permanently the name of the Res. No. 3 shows in wait list only."

6. The name of the respondent No. 3 is already kept in the wait list. If after the appointment is made of the respondent No. 3 and if he fails to maintain the petitioner and other family members, then the petitioner would have right to agitate.

7. In the light of the above, the writ petition is disposed of. No costs.

[MANGESH S. PATIL, J.]

[S. V. GANGAPURWALA, J.]

bsb/June 19