

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

REVIEW APPLICATION (ST.) NO.23655 OF 2018

IN

WRIT PETITION NO.4130 OF 2018

**(Zilla Parishad, Aurangabad, through Chief Executive
Officer Vs. Kalpana Valmik Shirsath)**

Mr. Shivaji T. Shelke, Advocate for the review
petitioner

Mr. A.G. Ambetkar, Advocate for respondent No.1

Mr. P.K. Lakhotiya, A.G.P. for respondent No.2/State

**CORAM : S.V. GANGAPURWALA AND
SUNIL K. KOTWAL, JJ.**

DATE : 15th MARCH, 2019

ORDER :

Heard.

2. Mr. S.T. Shelke, learned counsel for the review petitioner submits that from time to time, communications were made to respondent No.1/original petitioner. Learned counsel submits that as the non-applicant/respondent No.1 did not remain present, the person junior to her in the seniority list was given appointment and as respondent No.1 had crossed 45 years of age, certainly she could not have been considered. According to the learned counsel, a person after crossing 45 years of age cannot be

considered for appointment on compassionate ground. The Government Resolutions to that effect are issued from time to time.

3. We have heard Mr. A.G. Ambetkar, learned counsel for respondent No.1 (original writ petitioner).

4. We have considered this aspect while disposing of the writ petition. The contents of present review petition were considered that twice communications were issued to the non-applicant/respondent No.1

5. The letters issued to respondent No.1 by registered post were returned back. The respondent No.1 was not found on the address. It appears that the letters issued by review petitioner were never served on respondent No.1. Respondent No.1/non-applicant was also considered for appointment on compassionate ground, but due to communication gap, she could not be appointed as such and the person next to her in the seniority list was considered. It was in the peculiar facts of the case, we had considered the case of respondent No.1/non-applicant.

6. Certainly if the candidate crosses 45 years of age, name of such candidate is required to be removed

from the list of person/s to be appointed on compassionate ground. However, in the present matter, considering the facts available on record and that the person junior to the present respondent No.1/non-applicant in the list was given appointment on compassionate ground and that there was communication gap between the present review petitioner and respondent No.1/non-applicant, we had exercised jurisdiction in exceptional circumstances of the case and not as a matter of rule.

7. Mr. Shelke, learned counsel for the review petitioner submits that even now, son of respondent No.1/non-applicant has filed Writ Petition for his appointment on compassionate ground and the same is pending. Learned counsel Mr. Ambetkar, for respondent No.1/non-applicant, on instructions, submits that the son of respondent No.1 would withdraw the said Writ Petition.

8. In view of above, the Review Application stands disposed of. No costs.

[SUNIL K. KOTWAL]
JUDGE

[S.V. GANGAPURWALA]
JUDGE