

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6927 OF 2017

SMT. ASHABAI KAILASH TUPE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Mr. A.G. Godhamgaonkar, Advocate for petitioner
Mr. G.O. Wattamwar, AGP for respondent - State
...

CORAM : SUNIL P. DESHMUKH &
SMT. VIBHA KANKANWADI, JJ.
DATE : 26-11-2019

ORDER :

1. Heard learned counsel for petitioner.
2. Perused order dated 18-07-2014 passed by maharashtra administrative tribunal, Mumbai bench at Aurangabad on original application no. 230 of 2014.
3. Learned counsel for petitioner submits, as a consequence of implication in the domestic enquiry, which according to him, had been farcical, the delinquent deceased - husband of petitioner had been found guilty and had been dismissed under order dated 25-02-2008 and the delinquent had subsequently committed suicide on 07-04-2008, as a result of the dismissal. The petitioner, thereafter, had filed representations on 17-04-2008 and 16-10-2010, requesting for appointment on compassionate ground

in class-IV category. Said request had been declined under communication dated 03-12-2010, referring to that under government resolution dated 23-10-1994, no allowance can be given for appointment on compassionate ground upon an employee's dismissal from service.

Learned counsel further submits that in the circumstances, while the matter had been taken to tribunal, the tribunal had approached the matter pedantically. He, therefore, urges that indulgence be given to request being made under present petition since the family is devastated and there no earning source for the family.

4. Order passed by tribunal shows that relevant aspects referred to in resolution dated 23-10-1994 had been taken into account while such avenue for appointment in department is regulated by government regulations issued from time to time. While an employee is dismissed on enquiry about misconduct and subsequent to the same, he commits suicide, may be, the family is devastated and in a pitiable condition, yet, while the compassionate appointments are pursuant to policy of the government and are governed by decisions and resolutions issued from time to time, this eventuality is not covered under the same. In the circumstances, the tribunal's decision is hardly liable to be found fault with.

5. In such a case, writ petition is difficult to be conceived as a remedy when such a decision is questioned. We, therefore, are not inclined to entertain the writ petition. Writ petition is rejected.

However, it would be open for the petitioner to follow, prosecute, entreat and persuade the employer or other authority who would be able to take a call on special case and who may have special powers to take appropriate decision to remedy the situation.

[SMT. VIBHA KANKANWADI]
JUDGE

[SUNIL P. DESHMUKH]
JUDGE

arp/