

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 432 OF 2018
WITH
CIVIL APPLICATION NO. 2844 OF 2019

Pratiksha Wd/o. Govind Giri

...Petitioner

Versus

The State of Maharashtra and Ors.

...Respondents

Dr. S.D. Tawshikar, Advocate for Petitioner
Mrs. G.L. Deshpande, Assistant Government Pleader for
Respondent Nos. 1 to 4
Mr. P.G. Rodge, Advocate for Respondent Nos. 5 and 6

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

DATE : 18th FEBRUARY, 2019

ORAL ORDER:

1. The petitioner seeks appointment on compassionate ground in place of her husband, who died on 31.05.2007. It is submitted that immediately within one month, the petitioner had made an application seeking appointment on compassionate ground. The petitioner sought an appointment on compassionate ground on any Class-III/IV post. Mr. Tawshikar, the learned Counsel submits that it is erroneous on the part of the Institution to contend that petitioner did not possess the qualification. The petitioner is a graduate possessing B.A. qualification.
2. According to Mr. Rodge, the learned Counsel for the Institution, the vacant post does not exist. The husband of the petitioner was working as Instructor. There was no vacant post for the Instructor. The qualification

for the Instructor was M.Com. The petitioner was not qualified. The other posts are already filled in.

3. According to Mr. Tawshikar, the learned Counsel for the petitioner, the respondent No. 6 also runs another Institution which is governed by the Maharashtra Employees of Private Schools (Conditions of Service) Rule, 1981, namely, Mata Nargis Datta Vidyalaya.

4. The learned Assistant Government Pleader submits that as per the affidavit filed, there were two posts vacant with the respondent No. 5. The respondent No. 5 claims that already appointments are made after seeking permission from the competent authority.

5. The appointment on compassionate ground is governed by the Government Resolution dated 31st December, 2002. It appears that the petitioner had applied immediately within a month seeking an appointment on compassionate ground. The application of the petitioner ought to have been considered more particularly, when the deceased has left behind the widow, and minor daughters aged 5 and 2 years.

6. The respondent No. 6 can accommodate the petitioner in any Class-III/IV vacant post as per the qualification in respondent No. 5 or any other Institution run by respondent No. 6.

7. We would not like to disturb the appointments, if made legitimately.

8. The respondent No. 4 shall consider the roster and the

availability of the vacancy with the respondent No. 5 - Junior College. So also, shall consider the vacancy available with any other Institution run by the respondent No. 6 and pass an appropriate order with regard to the appointment of the petitioner.

9. In case no vacancy exists, either with respondent No. 5 or any other Institution run by respondent No. 6, then the respondent No. 5 is required to send a proposal to the District Vocational Education and Training Officer and/or concerned Officer. The name of the petitioner shall be kept in wait list with respondent No. 4 and/or with the Education Officer and shall be directed to accommodate as per turn in the list maintained by the officers. The respondent No. 4 and the concerned Education Officer shall verify the vacancy within a period of four weeks from today and further steps shall be taken accordingly.

10. Leave to add Education Officer as a party respondent. The learned Assistant Government Pleader waives service of notice for added party respondents.

11. The Writ Petition is disposed of. No costs.

12. In view of disposal of writ petition, the Civil Application is also disposed of.

[A. M. DHAVAL]
JUDGE

[S. V. GANGAPURWALA]
JUDGE

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