IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.671 of 2016

Shri Akshay Sudhakar Agrawal .....Petitioner
versus
Hon'ble Registrar General, High Court,
Appellate Side, Bombay and ors. .....Respondents

Mr. Nikhil P. Mallelwar I/b. Mr. Sachin R. Pawar, advocate for the petitioner.
Mr. Rajesh Sudhakar Datar, advocate for the respondent Nos.1 and 3.
Mr. A. A. Alaspurkar, AGP for the State.

CORAM : RANJIT MORE &
SMT. BHARATI H. DANGRE, JJ.

DATE : 6th JUNE, 2019.

P. C. :

1. The petitioner has invoked the jurisdiction of this Court seeking an appointment on compassionate ground by taking into account the demise of his father Shri Sudhakar Janakrao Agrawal, who was serving as Stenographer (Higher Grade) in the District and Sessions Court at Amravati. The father of the petitioner was suffering from stomach cancer and he succumbed to the said ailment on 16th February, 2009. The petitioner preferred a claim on compassionate ground since he had obtained B.Sc. Degree and he pleaded that the family is facing a difficult situation on account of the demise of his father and, therefore,

he is entitled to be appointed on compassionate ground in place of his father. The application preferred by the petitioner came to be considered by the respondent No.1, and by communication dated 20th August, 2014, the petitioner was informed that the request made by him cannot be considered in light of Guideline No. 7(c) of the Bombay High Court Revised Guidelines for Appointment on Compassionate Ground, 2007 which stipulate that the scheme shall apply only if " the total monthly income of such family is less than the total emoluments of 'Group C' employee of the lowest rank". This communication is challenged in the present petition.

2. We have heard learned counsel for the petitioner and Mr. Datar, learned counsel appearing for the respondent Nos.1 and 3. Learned counsel for the respondent Nos.1 and 3 has invited our attention to the affidavit-in-reply filed by the Registrar (Legal and Research), High Court, Appellate Side, Bombay, on 6th February, 2019. The affidavit filed on behalf of the said respondents proceeds to state that the mother of the petitioner, being widow of the deceased employee, is receiving a family pension of Rs.20,399/- p.m. and the bifurcation of which is given as Rs.11860/- + DA at 172% Rs.8539/- = Rs.20,399/- p.m..

A categorical statement is made that the emoluments of 'Group C' employee of the lowest rank range between Rs.14,000/- to 15,000/-p.m. at the relevant time, and as such, since the monthly pension received by the family of the petitioner is Rs.20,399/- p.m., the bar imposed under clause (c) of the 2007 Guidelines would come into picture, and this is the ground, on which , the request of the petitioner is rejected.

3. We have perused the said Guidelines of 2007. Clause 7 describes the eligibility for appointment on compassionate ground. Clause 7 reads thus :

> "The scheme shall apply only if:
>
> (a) The family deserves immediate assistance for relief from financial destitution; and
>
> (b) Applicant for compassionate appointment is eligible and suitable for the post in all respect under the provisions of relevant Recruitment Rules.
>
> (c) The total monthly income of such family is less than the total emoluments of 'Group C' employee of the lowest rank."

The Rules are explicitly clear, and in particular clause (c),

which makes a person ineligible for availing the benefit of the scheme in a contingency where the total monthly income of the family is more than the total emoluments of 'Group C' employee of the lowest rank.

4. The learned counsel for the petitioner has attempted to canvass before us by relying upon document dated 20th February, 2013, placed on record at "Exhibit-E" of the petition that the emoluments from 2019 received by the mother of the petitioner have been reduced to Rs.12240/- since the hike in the Dearness Allowance is not made admissible. We have perused the said communication placed on record. The said communication cannot be accepted on 2 counts. Firstly, that it is addressed by the petitioner to the Principal District and Sessions Judge at Amravati and secondly, the said communication is dated 20th February, 2013.

The respondents have dealt with the said contention in their affidavit and have submitted that the said contention is contrary to the contents of the letter dated 20th February, 2013 and the said document is a mere apprehension expressed by the petitioner. The presupposition in the year 2013 cannot justify that there is a depreciation of the pension emoluments and, therefore, we are not ready to consider the said document which has originated from the petitioner and we would

rather go by the contents of the affidavit which is placed before us stating that as on date, the petitioner's family is getting a pension of Rs.20399/- p.m..

5. In the such circumstances, since the Guidelines framed by the Bombay High Court for Appointment on Compassionate Grounds in the year 2007 specifically debar the petitioner from claiming compassionate appointment in view of clause 7(c) thereof. We do not find any perversity/illegality in the impugned order passed by the respondent No.1 which is based on Guidelines.

6. Resultantly, we dismiss the writ petition. There shall be no order as to costs.

[SMT. BHARATI H. DANGRE, J.] **[RANJIT MORE, J.]**