

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.13308 of 2017

Mrs. Malan Milind Kamble	Petitioner
versus	
Sangli, Miraj and Kupwad City	
Municipal Corporation and anr.	Respondents

Mr. Pramod G. Kathane, advocate for the petitioner.
Mr. G. H. Keluskar, advocate for respondent Nos.1 and 2.

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

DATE : 6th JUNE, 2019.

P. C. :

1. The petitioner seeks appointment in pursuance of the policy formulated in furtherance of Lad-Page Committee Recommendations for appointment on compassionate ground of Class IV Posts (Safai Kamgar). The petitioner claims to be daughter-in-law of one Smt. Lata Raghunath Mane, who was serving with the Health Department of respondent No.1- Sangli, Miraj and Kupwad City Municipal Corporation in the capacity of Sweeper till her age of superannuation which she attained on 30th April, 2011. Based on the policy decision, the petitioner claimed that she is eligible for appointment against the claim of said Smt. Lata Raghunath Mane and she preferred an application seeking such an appointment.

The said application came to be rejected by the Corporation on 11th August, 2015 and the said order is impugned in the present petition.

2. We have heard learned counsel for the petitioner as well as respondent and we have perused the impugned order dated 11th August, 2015. The said order proceeds to reject the application preferred by the petitioner on compassionate ground on the ground that in terms of the Circular issued by the Urban Development Department on 18th January, 2007, thereby formulating policy for appointment on compassionate ground on Class IV posts, it is imperative to prefer an application within a period of one year from the date of retirement. However, the application preferred by the petitioner is beyond the said period of one year and, therefore, do not deserve any consideration.

We have perused the said Government Resolution as well subsequent Government Resolution dated 26th February, 2014, which set out the policy for appointment on compassionate ground which contemplates that it is permissible for an employee who is working as Safai Kamgar in Class IV Category to nominate a person on account of retirement or in capacity incurred on account of medical reasons and this policy is prevailing since 2005.

The petitioner has stated the reason for the delay and it is categorically stated in the petition that the information about the policy should be given to the legal heirs of the retired employee and this obligation is cast on the Office of the Corporation. However, it is pleaded that the employee – Smt. Lata Raghunath Mane was not made aware of such a policy decision and, therefore, some delay has occurred in preferring the said application.

3. Mr. Keluskar, learned counsel appearing for the Corporation, does not dispute the eligibility of the petitioner to be appointed and avail the benefit of the said policy. He, however, submits that the application cannot be entertained since it is beyond the period prescribed by the policy and the petitioner has preferred the application belatedly after a delay of 9 months.

4. We have considered the petition and the submissions of the learned counsel for the Corporation and we are of the clear opinion that since the entitlement of the petitioner is not in dispute, mere delay in preferring an application would not justify denial of the claim of the petitioner and her eligibility in terms of the policy decision. In the peculiar circumstances which are sought to be justified in the petition, we deem it appropriate that the Corporation ought to have condoned

the delay and considered the claim made by the petitioner in place of Smt. Lata Raghunath Mane who has superannuated on 30th April, 2011.

5. In the light of aforesaid observations, since we do not agree that mere delay would be ground to reject an otherwise valid claim, we direct respondent No.1 to process the application dated 1st February, 2017, preferred by the petitioner for appointment on compassionate ground, since there is no other legal lacuna in the said application and issue an order of appointment in favour of the petitioner on compassionate ground in place of the ex-employee of the Corporation viz. Smt. Lata Raghunath Mane. We direct the Corporation to carry out the entire exercise within a period of six months from today.

6. With the aforesaid directions, the writ petition is made absolute in above terms. No order as to costs.

[SMT. BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]