

3. The petitioner's father Vasantrao Nathu Deore was working as Assistant Teacher (D.Ed. Scale) in the respondent No.4-School viz. Sharda Vidyalay run by respondent No.3. The petitioner's father, while in the employment, died on 14.08.1998 due to cancer. At the time of death of his father the petitioner was 13 years of age. The petitioner's brother who was 15 years at the relevant time made an application on 02.10.1998 with a request that he may be appointed in place of his father, on compassionate basis. However since he was minor, the appointment was not given.

4. The petitioner made applications on 27.12.2002 and 06.01.2003 requesting the respondent No.3 to appoint him on compassionate ground. The respondent No.3 informed the petitioner that he is a minor and therefore he can be considered for compassionate appointment only on attaining majority. The petitioner made an application on 20.10.2003 after attaining majority on 24.02.2003. He requested that as he had passed Std. XI exams and also passed MSCIT course, he may be appointed as a Clerk.

5. The Chairman of the Trust Shri Bhaskarrao Marathe made an endorsement dated 22.10.2003 on the application that at present vacancies are not available and the petitioner will be considered after the vacancy would become available. The petitioner made an application to the Education Officer on 22.10.2003 pointing out that his application for appointment on compassionate basis is not being considered by the Management. He further pointed out that there are other candidates who have been given appointment on compassionate basis.

6. On 06.07.2004 the petitioner again requested that as he had now passed Std. XII, he now may be considered on compassionate basis, to which again he received no response. The petitioner approached the Deputy Director of Education, Greater Mumbai for ventilating his grievance. The respondent No.2-Education Officer (Secondary), Zilla Parishad, Thane informed the Deputy Director of Education that there is ban on appointment of non-teaching employees, due to which all cases are kept pending.

7. The petitioner approached various authorities including the District Collector, Thane. In the meantime, in June 2007 the petitioner passed B.A. from University of Mumbai. On 12.02.2008 the respondent No.2 issued an order directing the respondent No.3 to appoint the petitioner on compassionate basis since the petitioner's father expired while in the employment of respondent No.3. The reasons assigned by respondent No.3 for non compliance of this order was the ban on recruitment imposed by the Government still exists and the same is not yet lifted.

8. In June 2008 the petitioner passed B.Ed. from Mumbai University. The petitioner on the basis of this qualification of B.A. B.Ed. on 03.06.2008 requested that he be appointed as a trained graduate teacher.

9. Respondent No.3 published advertisement in local newspaper "Kalyan Nagarik" on 12.05.2010 inviting applications to prepare waiting list of Shikshan Sevaks in the aided/unaided and permanent unaided Secondary and Higher Secondary Schools of the Management from the candidates having

educational qualifications B.A. B.Ed. Respondent No.3 informed the petitioner that he may apply as per the advertisement so that his name can be included in the waiting list. The Petitioner was further assured that on the basis of his name in the waiting list, he will be given the appointment when the next academic year would commence in June 2010. The petitioner made an application but he was not called for selection nor was he informed whether his name was included in the waiting list.

10. The petitioner has thus prayed that the respondent No.3 may be directed to appoint the petitioner as Clerk on compassionate basis in the respondent No.4 School or in any other recognised and aided Secondary Schools of respondent No.3- Management.

11. This court had issued a notice of final disposal to respondent Nos.3 and 4. The appearance had been filed on behalf of respondent Nos.3 and 4 on 10.08.2015. None appeared on behalf of respondent Nos.3 and 4 when this Petition is heard.

12. We have heard learned counsel for the petitioner and learned A.G.P. for respondent Nos.1 and 2. The factual averments that the petitioner's father was working as permanent teacher in respondent No.4 School and he died on 14.08.1998 while the employment is uncontroverted. At the time of death of the petitioner's father, the petitioner was a minor. On attaining majority he made an application for appointing him on compassionate basis as a Clerk. He approached the concerned authorities and also respondent Nos.2, 3 and 4 from time to time, but he was not appointed on the pretext that there was a ban on making new recruitment of non-teaching employees.

13. The petitioner attained majority sometime in October 2003. The whole object of making an appointment on compassionate basis is to provide financial succour to the family of the deceased in times of hardships and distress. Though the application was made by the petitioner upon attaining majority, the same was not considered by the respondent Nos.3 and 4 on the ground that there is ban on the recruitment of non-teaching

employees. The petitioner's father died while in employment. Much time has elapsed since the death of petitioner's father. At this belated stage it is not possible for us to issue any directions to respondent Nos.3 and 4 to appoint the petitioner as a Clerk/Assistant Teacher on compassionate basis.

14. However we find that the averments as regard the assurance given by the respondent Nos.3 and 4 that the petitioner would be appointed on compassionate basis once the ban on recruitment for non-teaching staff is lifted is uncontroverted. Even the respondent No.2 had directed the respondent No.3 to appoint the petitioner on compassionate basis vide communication dated 12.02.2008 which order of respondent No.2 was not complied as there was ban on recruitment.

15. Considering the overall circumstances, in our opinion, interest of justice would be subserved if the respondent Nos.3 and 4 permit the petitioner also to participate in the next regular selection process when the appointment is to be made

for the post of Clerk in the respondent No.4 School or in any of the School run by the respondent No.3. In the interest of justice, it is clarified that petitioner be granted age relaxation.

16. With these observations, the present Writ Petition is disposed of.

17. Rule is partly made absolute with no order as to costs.

(M.S. KARNIK, J.)

(S.C. DHARMADHIKARI, J.)