

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.6514 OF 2018

Zilla Parishad Gadchiroli, Through its Chief Executive Officer

-vs-

Krushna Shankar Sapate

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri A. R. Fule, Advocate for petitioner.

Shri C. V. Jagdale, Advocate for respondent.

CORAM : A.S.CHANDURKAR, J.

DATE : July 29, 2019

In view of notice for final disposal issued earlier, the learned counsel for the parties have been heard at length.

The petitioner-Zilla Parishad is aggrieved by the directions issued by the Industrial Court while allowing the Complaint preferred by the respondent directing consideration of his claim for compassionate appointment. The father of the respondent who was serving with the Zilla Parishad expired on 30/09/2009. As the respondent was a minor at that time, his mother had made applications on 17/12/2009 and 31/03/2010 for being appointed on compassionate ground. A waiting list was accordingly prepared in which the name of the respondent's mother was shown at Sr. No.649. The name of the respondent was thereafter inserted in place of his mother after he attained the age of majority. The

respondent's name was however not considered favourably on the ground that his elder brother was in the employment of the Zilla Parishad since the year 2003. Hence the respondent filed the aforesaid Complaint which has been allowed by the Industrial Court after holding that there was no material placed on record by the petitioner to indicate the elder brother who was in employment was residing along with the respondent and supporting the family. Being aggrieved, that order has been challenged in the present writ petition.

2. Shri A. R. Fule, learned counsel for the petitioner submitted that as the respondent's elder brother was already in employment of the Zilla Parishad, the family was not in financial distress for grant of appointment to the respondent on compassionate ground. The elder brother who was in employment could always support the family and such appointment on compassionate ground could be given to another deserving applicant. The burden to prove that the elder brother was not maintaining the family of the deceased was wrongly put on the employer. It was thus submitted that the Complaint was liable to be dismissed.

3. Shri C. V. Jagdale, learned counsel for the respondent

submitted that the initial Scheme framed by the State Government dated 26/10/1994 was substituted by a subsequent Scheme dated 22/08/2005. The name of respondent's mother was included in the list of eligible contenders as per the policy dated 22/08/2005. The elder brother was not supporting the family and in absence of any such evidence the Industrial Court rightly allowed the Complaint.

4. Heard the learned counsel and perused the material on record. It is not in dispute that the case of the respondent was considered in the light of the Scheme prepared on 22/08/2005. The waiting list indicates the name of the respondent at Sr.No.649. However, only on the ground that his elder brother is in service with the Zilla Parishad said application had not been considered. The burden to prove that the elder brother was maintaining the family of the deceased was on the Zilla Parishad as it intended to deny any relief to the respondent. On the other hand the respondent produced Ration Card at Exhibit-U-8 to indicate deletion of the name of his brother from the Card since the year 2003 onwards. It is also found that the brother was appointed in the Zilla Parishad much prior to the death of the father. On these counts the case of the respondent has been directed to be

considered for compassionate appointment.

5. It is found that the Industrial Court has considered all relevant aspects and has merely directed the Zilla Parishad to consider the claim of the respondent. No fault can be found with the impugned order which does not suffer from any jurisdictional error.

The Writ Petition is therefore dismissed with no order as to costs.

JUDGE