

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 10592 OF 2019

Vinod Dashrath Chavan .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri Hanumant P. Jadhav, Advocate for the Petitioner.
Mrs. Geeta L. Deshpande, A.G.P. for Respondent Nos. 1 to 3.
Shri A. K. Tiwari, Advocate for the Respondent No. 4.

**CORAM : S. V. GANGAPURWALA AND
SHRIKANT D. KULKARNI, JJ.
DATE : 29TH JANUARY, 2020.**

FINAL ORDER :

. The petitioner is seeking appointment on compassionate ground on account of the death of his father Dhashrath Dhavan while in service. The father of the petitioner died on 11th February, 2013. It appears that, mother of the petitioner and the mother of the respondent No. 4 filed applications seeking appointment on compassionate ground of their respective sons. According to the respondents, the name of the respondent No. 4 was recorded pursuant to the application given by Kaushalyabai, the first wife of the deceased. According to the employer, the mother of the petitioner is second wife. The petitioner has produced the seniority list of the persons to be appointed on compassionate ground. The name of the respondent No. 4 was

included in it, however, endorsement is made in the remark column that the proceeding of legal heirship is pending before the Court and it is only after the decision is taken by the Civil Court, the name of the person would be taken in the seniority list.

2. It appears that, the proceedings were filed for heirship certificate. In the said proceeding settlement took place between petitioner and the respondent No. 4 and their respective mothers. It was decided that pension would be received by the mother of the respondent No. 4 and petitioner would be entitled to claim appointment on compassionate ground.

3. It appears that, the Tribunal has rejected the claim of the petitioner on the ground that the respondent No. 4 is already appointed on compassionate ground and included in the list of the persons to be appointed on compassionate ground. There is no provision for substitution of name.

4. We had asked the learned Assistant Government Pleader, as to whether the respondent No. 4 was appointed on compassionate ground or appointed through selection process. The learned A. G. P. upon instructions from the respondents submits that, the respondent No. 4 was appointed after undergoing selection process and not on compassionate ground.

5. The respondent No. 4 has also given no objection for entering the name of the present petitioner in the list of the

persons to be appointed on compassionate ground. The heirship proceedings have been decided and in the heirship proceeding it has been settled between the parties that the petitioner would claim appointment on compassionate ground and pension would be claimed by the mother of the respondent No. 4.

6. As the name of the respondent No. 4 was only included provisionally and that was subject to decision in the legal heirship proceedings, the legal heirship proceeding culminated in settlement and the petitioner was allowed to claim appointment on compassionate ground, whereas respondent No. 4's mother was allowed pensionary benefits.

7. In view of the above, we set aside the impugned order passed by the Tribunal and order of the respondent authorities holding that the name of the respondent No. 4 is to be included in the seniority list.

8. The respondents shall include the name of the petitioner in the seniority list of the persons to be appointed on compassionate ground and as per his turn shall consider to appoint the petitioner on the post commensurate to his qualification.

9. In the light of the above, the writ petition is allowed. No costs.

[SHRIKANT D. KULKARNI, J.] [S. V. GANGAPURWALA, J.]

bsb/Jan. 20