

Pradnya Bhogale

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.1848 OF 2014

Sunil Mahadeo Gawade

..Petitioner

vs.

The Director, Hafkin Institute and Anr.

..Respondents

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Mr. Ashutosh M. Kulkarni a/w Akansha Helaskar for Petitioner.

Mr. L.M. Acharrya I/b. Anish Khandekar for Respondent No.1.

Ms. Rupali Shinde, AGP for Respondent No.2.

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**CORAM : NITIN JAMDAR &
M.S.KARNIK, JJ.**

DATE : 4 FEBRUARY 2020

P.C.:-

By this Petition, the Petitioner is seeking writ of mandamus directing the Respondents to appoint the Petitioner with effect from 1 September 2001.

2. Petitioner's father was working as Laboratory Attendant with the Respondent No.1-Institute. He retired from service on 31 August 2001. Prior to his retirement he made a request that the Petitioner be appointed in his place. Thereafter, according to the Petitioner, the case of the Petitioner was not considered even though the communication to that effect was

issued on 6 September 2001 by the Under Secretary, State of Maharashtra to the Director of Respondent-Institute on the ground that there was a recruitment ban. It is submitted that when the recruitment ban was lifted, the Petitioner made several representations. However, they have not been considered in view of the change in policy and on the ground that the Petitioner has become age barred. Hence this Petition.

3. We have heard Mr. Kulkarni, learned counsel appearing for Petitioner, Mr. Acharrya, learned counsel appearing for Respondent No.1 and Ms. Shinde, AGP appearing for Respondent No.2.

4. It is the contention of the learned counsel for the Petitioner that the Petitioner had a right to be appointed as per the policy of the Respondent-Institute as on the date of his father's superannuation and subsequent changes in the policy will not take away the said right. Therefore, even the fact that the Petitioner has become age barred should not come in his way. It is the contention of the Petitioner that the Petitioner is not seeking appointment on compassionate basis and the Petitioner is seeking appointment in place of his father on simpliciter retirement.

5. The law governing entry in public services is settled by catena of decisions of the Supreme Court and this Court. The

entry should be through methodology of public participation. Some of the exceptions to this rule are appointment on compassionate basis. These are provided with an object to tide over the sudden calamity faced by the family of the employee. The Petitioner seeks an appointment based merely on the retirement of his father. The Respondent does not have this policy as of today. The Petitioner has become age barred. Any such direction to the Respondent would be contrary to the current policy of the Respondents and the law governing the public employment.

6. The Writ Petition is rejected.

(M.S.KARNIK, J.)

(NITIN JAMDAR, J.)