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

WRIT PETITION NO. 8828 OF 2015

Mr. Sandeep Dashrath Garje

... Petitioner

V/s.

The State of Maharashtra and Anr.

... Respondents.

Mr. Anukul Seth i/b. P.V. Thorat for the Petitioner

Mr. Yogendra P. Singh, Special Advocate a/w. Mr. Vikas Mali, AGP
for Respondent No.1.

Mr. C.G. Gavnekar a/w. Mr. Ashutosh Gavnekar for Respondent 2.

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

DATE : 5 FEBRUARY 2020.

P.C. :-

The Petitioner has challenged the order passed by the Respondent No.2 – Zilla Parishad dated 31 March 2015 and Clause 2 of the Government Resolution dated 2 September 1983.

2. The Respondent No.2 – Zilla Parishad issued an advertisement on 7 September 2013 inviting applications for appointments in the services of the Respondent – Zilla Parishad.

The advertisement stipulated that family members of ex-defence personnel would be considered in the 15% reservation/quota. The Petitioner's application was rejected by the Respondent – Zilla Parishad by the impugned communication stating that though the Petitioner had applied from this category, since the Petitioner's father had passed away after his retirement, the Petitioner's claim cannot be considered. This is also the stipulation in the Government Resolution issued by the State of Maharashtra dated 2 September 1983.

3. We have heard the learned Counsel for the parties.

4. As regard the order dated 31 March 2015 is concerned, it refers to an advertisement and the advertisement is in consonance with the Government Resolution dated 2 September 1983. Therefore, no error can be found in the letter issued by the Respondent – Zilla Parishad dated 31 March 2015. As regard the challenge to the stipulation in Clause 2 of the Government Resolution dated 2 September 1983, there is no merit in the same. It is an admitted position that the Petitioner's father, though was working in the defence services, had expired after his retirement. According to the Petitioner the classification made between the persons in service and post retirement is arbitrary and bad in law. This cannot be accepted. First priority is given to those who were working in defence services, second to the family members of those

who expired while in service or retired due to permanent disability. Family members of those who expired after retirement clearly stand on a different footing. The priority is relatable to the concept of compassionate appointment wherein the appointment is given if an employee dies in harness or has to take a retirement due to a permanent disability while in service.

5. We do not find anything arbitrary or irrational in Clause 2 of the Government Resolution dated 2 September 1983 where prioritization has been done. The Petitioner's father, having expired after superannuation, the Petitioner does not fall in this category and therefore, no relief can be granted to the Petitioner.

6. The Writ Petition is accordingly rejected.

M.S. KARNIK, J.

NITIN JAMDAR, J.

Jyoti P. Pawar

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by Jyoti P. Pawar
Date: 2020.02.11
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