

DDR

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

WRIT PETITION NO. 77 OF 2017

Bhushan s/o. Vijay Kadekar

..Petitioner

vs.

The State of Maharashtra & ors.

..Respondents

.....

Mr. Arvind Ambetkar for petitioner.

Mr. R.S. Pawar, AGP for respondent Nos. 1 to 3.

Ms. Tanvi Kamat Deosthale i/b. Mr. Mandar Limaye for
respondent No.4.

.....

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

DATE : 7 FEBRUARY 2020

P.C.:-

By this Petition, the Petitioner has sought a direction to the Respondents to appoint the Petitioner on compassionate basis in the service.

2. Perusal of the facts and events that have unfolded, will demonstrate that it is not possible to issue such direction, keeping in mind the object of grant of compassionate appointments and the dicta of the Apex Court that such a direction should not be issued on mere sympathy. The object of compassionate

appointment is to help the bereaved family of the deceased employee to tide over the sudden calamity and it is not to be treated as another alternate source of recruitment creating vested right for an indefinite period, unless the service rules provides for so.

3. In the present case, the Petitioner's father, working with the Respondents, had expired on 14 April 2000. An application was made on behalf of the Petitioner by the Petitioner's mother since the Petitioner was minor. The Respondents have passed the resolution in favour of the Petitioner on 17 March 2003. However, by a decision dated 5 March 2004, the Chief Officer refused the appointment. This was also communicated to the Petitioner's mother on 10 March 2004. It is the Petitioner's case that again a resolution was passed in favour of the Petitioner and again it was refused in the year 2012. It is stated that last refusal was in the year 2016 and thereafter, the Petition was filed.

4. The Petitioner is seeking appointment on compassionate basis in place of his father, who expired in the year 2000 that is two decades ago. First refusal is of the year 2003. Thereafter, various reasons such as non availability of vacancies, the matter is remained pending. The Petitioner's right, therefore, traced back to 2000 and first refusal is of 2003. It is in year 2016 the Petitioner has approached this Court seeking a writ of *mandamus* directing

the Respondents to take the Petitioner in service. As referred to above, while issuing such direction, the object of compassionate basis has to be kept in mind. It is not possible for us to issue a writ in these facts and circumstances, as it will go contrary to the object of compassionate appointment. The Writ Petition is, accordingly, rejected.

(M.S.KARNIK, J.)

(NITIN JAMDAR, J.)

Diksha
Rane
Digitally
signed by
Diksha
Rane
Date:
2020.02.12
13:39:59
+0530