

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.5927 OF 2020

THE AGRICULTURE PRODUCE MARKET COMMITTEE SHEVGAON
THROUGH IT'S SECRETARY
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Mr.V.H.Dighe, Advocate for the petitioner.
Mr.S.K.Tambe, AGP for respondent Nos. 1 to 3.
Mr.A.N.Kakade h/f Mr.G.P.Darandale and Mr.D.R.Markad, Advocates
for respondent No.4.

(CORAM : RAVINDRA V. GHUGE &
S.G. MEHARE, JJ)

DATE : JULY 6, 2021

PER COURT :

1. On 30/06/2021, we had passed the following order :-

“1. We have briefly heard the learned Advocate for the petitioner. It is obvious that the husband of respondent No.4 was in employment as a Clerk when he died in harness. Respondent No.4 applied for compassionate appointment in place of her husband, on the post which became vacant due to his untimely death.

2. The learned Advocate for the petitioner submits that the petitioner is challenging the order of the District Deputy Registrar, Co-operative Society, Ahmednagar,

dated 18/12/2019, directing the appointment of respondent No.4 on compassionate ground. The learned Advocate for the petitioner would take instructions from the petitioner as to what is the required qualification for the post of a Clerk.

3. We are listing this matter in the 'passing orders' category on 05/07/2021.

4. We, however, make it clear that the Circular dated 06/05/2021, introducing the minimum qualification of 'Higher Secondary Certificate' for appointment as a Clerk, would not apply with retrospective effect to the case of respondent No.4 as her husband passed away on 11/05/2018 and she has applied for compassionate appointment within the prescribed time."

2. Mr.Dighe, the learned Advocate representing the petitioner has taken instructions from the petitioner and fairly states that, as on the date of her application, respondent No.4 was not eligible to be appointed as a Jr.Clerk on compassionate basis in place of her deceased husband as she was not S.Sc. Holder (10th standard passed), the petitioner had questioned the impugned order passed by respondent No.3 dated 18/12/2019. However, it is now revealed that

respondent No.4 has acquired the S.Sc. Qualification having passed 10th standard examination in 2019 and would, therefore, be eligible for appointment as a Jr.Clerk.

3. The learned Advocate representing respondent No.4 submits that if she is now appointed, she is willing to join as a Jr.Clerk since she has 2 children and is a widow without any source of income on account of the demise of her husband while in employment.

4. The learned Advocate for the petitioner submits that the State of Maharashtra has issued a circular making it mandatory for Junior Clerks to have the knowledge of operating a computer.

5. We find from the documents placed at page No.47 alongwith the reply of respondent No.4 dated 30/06/2021, that she has recently passed the Maharashtra State Certificate in Information Technology (MS-CIT) in January 2020. As such, the requirement of respondent No.4 having the knowledge of computer science stands fulfilled.

6. We quite appreciate that respondent No.4, having suffered a personal tragedy of losing her husband and being a widow at a

tender age with 2 children to support, has taken much efforts to pass the 9th standard and subsequently the 10th standard examination in March 2019. Thereafter she has passed her MS-CIT examination in January 2020. In view of these developments, there is no impediment in the path of the appointment of respondent No.4 as a Jr.Clerk on compassionate ground.

7. Considering the above, this petition is disposed off. We expect the petitioner to issue an appointment letter to respondent No.4 so as to join as a Jr.Clerk, preferably within 15 days from today. On receipt of the appointment letter, respondent No.4 would joint duties within one week.

(S.G. MEHARE)

(RAVINDRA V. GHUGE, J.)