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

930 WRIT PETITION NO.8023 OF 2020

1. Smt. Archana wd/o Mahendra Arbat,
Age: 37 years, Occu: Service with outsourcing
agency, under Respondent Bank only,
R/o. Farande Nagar, Near Mahalaxmi Mandir,
Wadi Budruk Road, Nanded 431605

2. Saurabh s/o Ramesh Ghatekar,
Age: 20 years, Occu: Service with outsourcing
agency, under Respondent Bank only,
R/o. At Post Chudava, Tah. Purna,
Dist. Parbhani

3. Pradip s/o Vijay Shinde,
Age: 30 years, Occu: Service with outsourcing
agency, under Respondent Bank only,
R/o. Samta Nagar, Dam Road, Udgir,
Dist. Latur

4. Aakash s/o Pandharinath Rashinkar,
Age: 26 years, Occu: Service with outsourcing
agency, under Respondent Bank only,
R/o. Ashwini Nivas Samta Nagar,
Behind Sagar Furniture, Gangapur,
Tq. Gangapur, Dist. Aurangabad ...PETITIONERS

VERSUS

1. Maharashtra Gramin Bank,
Through its Regional Manager,
Maharashtra Gramin Bank, Regional Office
at Nanded

2. Maharashtra Gramin Bank,
Through its Regional Manager,
Maharashtra Gramin Bank,
Regional Office at Parbhani

3. Maharashtra Gramin Bank,
Through its Branch Manager,
Maharashtra Gramin Bank at Udgir,
Dist. Latur

4. Maharashtra Gramin Bank,
Through its Regional Manager,
Maharashtra Gramin Bank,
Regional Office at Beed

5. The General Manager,
Maharashtra Gramin Bank,
Head Office at “Jeevanshree”,
Plot No.35, Sector G, Town Centre,
CIDCO, Aurangabad

6. The Chairman,
Maharashtra Gramin Bank,
Head Office at “Jeevanshree”,
Plot No.35, Sector G. Town Centre,
CIDCO, Aurangabad ...RESPONDENTS

Mr A. D. Kasliwal, Advocate for petitioners;
Mr Pradeep L. Shahane, Advocate for respondents

CORAM : RAVINDRA V. GHUGE
AND
S. G. MEHARE, JJ.

DATE : 8th September, 2021

ORAL JUDGMENT (Per : Ravindra V. Ghuge, J.)

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2. The petitioner has put forth prayer clauses (B) and (C) as under :

> *"B) The impugned orders of terminating the services of the petitioners dated 12.3.2020 at Annexure- 'B' may kindly be quashed and set aside, by directing the respondents to reinstate the petitioners in service as before.*
>
> *C) Pending hearing and final disposal of this petition, the respondents may kindly be directed to continue the petitioners in service as before, by directing to maintain status-quo as on 11.3.2020."*

3. Since the petitioners have approached this Court after their termination, this Court has not granted them ad-interim relief.

4. This petition has been filed by four identically placed persons, who were appointed on compassionate basis vide appointment orders, all dated 04/09/2019. The husband of petitioner No.1 was in employment of the respondent – Bank, who died in harness on 22/01/2017. He was working as an 'Office Assistant – Class-III'. He had two children. A daughter aged 6 years and a son aged 4 years. The father of petitioner No.2 died in harness on 07/07/2015. He was working as a 'Messenger – Class-IV'. He had two sons and petitioner No.2 is the elder son.

The father of petitioner No.3 died in harness on 12/11/2017. He was working as a ‘Messenger – Class-IV’. He was survived by a widow and two children, the petitioner No.3 - son and a daughter. The father of petitioner No.4 died in harness on 27/01/2018. He was working as an ‘Office Assistant – Class-III’. He was survived by a widow and petitioner No.4 - son.

5. Identical office orders, all dated 12/03/2020, were issued by the respondents, thereby terminating the compassionate appointments of the petitioners on the ground that the scheme providing for compassionate appointments was adopted by the Board of Directors of the Bank on 27/02/2019. Since the death of the bread earner of all these petitioners had occurred prior to 27/02/2019, the Bank concluded that they were not eligible and hence, by observing that their appointments on compassionate basis were irregular, they were all terminated.

6. It is undisputed that after their termination, these petitioners were continued in the temporary employment of the respondents Bank through an outsourcing agency. In short, were employed as contract labour.

7. The learned Advocate for the respondents – Bank authorities, relies upon the affidavit-in-reply filed by Shri. Sanjay Sitaram Wagh, Chief General Manager, Maharashtra Gramin Bank. He refers to the contentions set out in the affidavit-in-reply and has strenuously opposed this petition. He is instructed to canvass that as the Board of Directors adopted the compassionate appointment scheme w.e.f. 27/02/2019, none of these petitioners would be eligible. This aspect was overlooked while issuing them appointment orders. This discrepancy was noticed within six months of their appointments and the respondents immediately adopted remedial steps to dis-continue these petitioners.

8. We have perused the Circular, annexure R-6 of the affidavit-in-reply, at page 49 issued by the Banks, which indicates that the compassionate appointment scheme annexed to the Circular was made applicable to the Bank w.e.f. 27/02/2019. The Government of India had granted approval to the scheme on 05/12/2014, so as to be made applicable to all the public sector Banks and all Regional Rural Banks. The options of adopting compassionate or payment of lump-sum ex-gratia in lieu of compassionate appointment was available for the members of the bereaved family.

9. Insofar as the scheme for compassionate appointment in Maharashtra Gramin Banks (respondents herein), the Coverage Clause 1.1. reads as under :

> *"1. COVERAGE :-*
> *1.1. To a dependent family member of permanent employee of a Maharashtra Gramin Bank who*
>
> *a) Dies while in service (including death by suicide) on or after 5th August 2014*
> *b) Is retired on medical grounds on or after 5th August 2014 due to incapacitation before reaching the age of 55 years. (Incapacitation is to be certified by a duly appointed Medical Board in a Government Medical College/Government District Head Quarters Hospitals/Panel of Doctors nominated by the Bank for the purpose."*

10. Clause 2 prescribes the ambit of dependent family members as under :

> *"2. DEPENDENT FAMILY MEMBER :-*
> *2.1. Spouse: or*
> *2.2. Wholly dependent son (including, legally adopted son): or*
> *2.3. Wholly dependent daughter (including legally adopted daughter) : or*

2.4. Wholly dependent brother or sister in the case of unmarried employee."

11. In view of the above, it is clear and leaves no scope for ambiguity that after the compassionate appointment scheme was made applicable to the respondents Bank, it granted coverage to such dependent family members, whose sole bread earner had died while in service on or after 05/08/2014. Cases of death due to suicide were also included to enable the dependent family members to seek compassionate appointment. Retirement on medical grounds due to incapacitation before reaching the age of 55 years, made the dependent family members eligible for compassionate appointment.

12. We find that the impugned orders which are cryptic in nature, have been issued by the authority of the respondents Bank without applying mind to the Coverage Clause which was a part of the scheme that was adopted by the Bank. It goes without saying that the Bank consciously did not alter the Coverage Clause since the scheme was made applicable under the orders of the Government of India having approved the scheme for all public sector Banks and Regional Rural Banks. The petitioners were, therefore, rightly appointed.

13. In view of the above, this petition is allowed in terms of prayer clause (B) reproduced above. The petitioners, however, would not be entitled for back wages from the date they have been deployed in the same Bank through an outsourcing agency till they are reinstated in employment. The respondents Bank shall reinstate them expeditiously and preferably within two weeks from today. Notional continuity of service is granted and as such, there would be no break in service of the petitioners.

14. The learned Advocate for the petitioners submits that these petitioners are yet to be paid their salary after they joined duties pursuant to their appointment on compassionate basis. In the light of this request, we are sure that the respondents Bank would consider the said prayer fairly unless there is any legal impediment, within four weeks from today.

15. Rule is made absolute in the above terms.

(S. G. MEHARE, J.) **(RAVINDRA V. GHUGE, J.)**

sjk