

Bhogale

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

WRIT PETITION NO. 4552 OF 2019

Asmita Arvind Patil & anr. .. Petitioners
vs.

Chief Engineer (KZR) MSEDCL
Company Ltd. & anr. .. Respondents

Mr. Rajdeep S. Khadapkar for the Petitioners.

CORAM : M.S.KARNIK, J.

DATE : JANUARY 28, 2021

P.C.:-

Heard learned counsel for the Petitioners.

2. The challenge in this Petition under Article 226 of the Constitution of India is to an order dated 31.10.2018 passed by the Industrial Court, Kolhapur dismissing the complaint of the Petitioners. The complaint was filed under the provisions of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (for short 'MRTU & PULP Act') essentially seeking relief of compassionate appointment. The Petitioner No.1 is voluntarily retired employee of Respondent No.1-Company. She sought premature retirement on medical grounds. The Petitioner No.1 therefore claimed that the Petitioner

No.2 be appointed on compassionate ground. The Industrial Court rejected the complaint holding that the complainant is not a workman and there is no employee and employer relationship between the complainant and the Respondents.

3. So far as the merits are concerned, even the husband of the Petitioner No.1 was in the service of the Respondent No.1- Company till 31.05.2015. The Petitioner No.1 took voluntary retirement on 02.04.2007. The Petitioner No.2 made an application for compassionate appointment on 25.08.2010. The Respondents called upon the Petitioners to make certain compliances vide their letter dated 22.08.2011. The Petitioners did not file the affidavits as required in the letter dated 22.08.2011 till 2015 to the effect that no one dependent is working in the government, semi-government and private service prior to taking VRS. Petitioner No.2 waited till the retirement of his father and thereafter submitted the documents. It is thus clear that on the date when the Petitioner made an application for compassionate ground the Petitioners father was working with the Respondent-Company. The categoric finding has been recorded that the Petitioner Nos.1 and 2 are staying together with the father which is not controverted.

4. In this view of the matter, even considering the scheme for employment of the son/daughter of the deceased employees which is enclosed at page 79 of the Petition, the Petitioner No.2 cannot be said to be covered by the said scheme. The Petitioner's father was working with the Respondent-Company on the date when the application for compassionate appointment was made. I do not find any perversity in the order passed by the Industrial Court, Kolhapur.

5. The Writ Petition is dismissed.

(M.S.KARNIK, J.)

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