

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

WRIT PETITION NO.1209 OF 2020

Smt.Alka Govind Kumbhar & Anr.

...Petitioners

vs.

The Union of India & Anr.

...Respondents

...

Mr.Jayendra Khairnar for Petitioners.

Mr.T.J. Pandian with Mr.T.C.Subramanian, Mr.Dheer Sampat &
Ms.Prachi Shah for the Respondents.

...

**CORAM : DIPANKAR DATTA, CJ &
G. S. KULKARNI, J.**

DATE : AUGUST 11, 2021

PC :

1. This writ petition is directed against an order of dismissal of the petitioners' original application under Section 19 of the Administrative Tribunals Act 1985 by the Central Administrative Tribunal, Mumbai Bench, Mumbai. By the impugned judgment and order dated August 01, 2019, the prayer of the second petitioner for appointment on compassionate ground has been spurned.

2. It appears that the husband of the first petitioner and the father of the second petitioner, a Government employee, died-in-harness on May 20, 1991 after he had put in five years of service. On such date, the second petitioner was merely 11 months old. No application for compassionate appointment was submitted by the first petitioner immediately after her husband's death. It was only

on February 15, 2017 that the second petitioner applied for compassionate appointment, when she was 27 years old.

3. For the reasons assigned in the impugned judgment and order, the Tribunal declined to grant any relief to the petitioners.

4. We have read the impugned decision. We have also heard learned advocates appearing for the parties.

5. Compassionate appointment is offered, in accordance with a scheme/rule, only in those exceptional situations when the family members of the deceased bread earner are not likely to survive, but for such appointment. Between May 20, 1991 and February 14, 2017, the petitioners never perceived that they would not survive unless on compassionate ground an appointment is offered to any one of them. If at this distance of time the respondents are directed to consider the application for compassionate appointment, it would result in a mockery of the principle of protective discrimination that is made available to dependents of Government employees who die while in service leaving behind family members. That is not the case here.

6. That apart, no provision of any scheme/rule for compassionate appointment has been brought to our notice which would entitle the petitioners to lay a claim for such appointment 25 years after the death of the bread earner.

7. The writ petition is devoid of merit and is, accordingly, dismissed. No costs.

(G. S. KULKARNI, J.)

(CHIEF JUSTICE)

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