

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

Writ Petition No. 882/2021

Prathamesh S/o Ravindra Sonone

...Petitioner

Versus

General Manager, Central Railway and ors.

...Respondents

Smt. S.P. Giratkar, Advocate for the Petitioner

Shri N.P. Lambat, Advocate for the Respondents

**CORAM : NITIN JAMDAR AND
ANIL S. KILOR, JJ.**

DATED : 15 FEBRUARY 2021

P.C.:

Heard learned Counsel for the Parties.

2. The Petitioner has filed this Petition for a direction to the Respondents to grant appointment on compassionate basis on the death of his father who was working as a Constable in Railway Security Force, Central Railway, Bhusawal.

3. Petitioner's father was appointed in the year 1987 as a Constable. Petitioner's father was compulsorily retired on 05 August 2006 and thereafter, passed away on 24 February 2007. The Petitioner made an Application for compassionate appointment on 13 June 2017. It is the case of the Petitioner that this Application has not been decided.

4. Before the Writ is issued to the Respondents to consider or direct appointment of the Petitioner on compassionate basis, it will have to be seen whether the Petitioner has any such right. Firstly, the Petitioner has stated that the Petitioner's father was compulsorily retired on 05 August 2006 on medical grounds. No document stating the reason for compulsory retirement is on record. If it is a case of simplicitor compulsory retirement, no claim for compassionate appointment arises. Even proceeding on the basis that the Petitioner's father was retired on medical grounds, the aspect of the delay of Eleven years in making an application will have to be taken note of. The explanation given by the Petitioner was that the Petitioner was a minor and upon becoming major, he has made the Application.

5. The Petitioner has placed on record a Scheme for Compassionate Appointment issued under Government Resolution dated 16 January 2013 as applicable to the Petitioner. The Scheme deals with the belated request for compassionate appointments. In Clause 9 thereof, though in given cases upto 5 years request for compassionate appointment can be considered, this discretion has to be strictly examined keeping view the object of such application. Clause 9(b) specifically states that for considering compassionate appointment reference to the date of death or retirement on the medical ground of a Government Servant shall be taken and not the age of the Applicant at the time of the consideration. Therefore, the Scheme as applicable to the Petitioner does not stipulate that the dependent can wait till he/she becomes major and thereafter apply.

6. In absence of any specific rule, permitting the delayed appointment, the general position of law and the object of the compassionate appointment will have to be kept in mind. The compassionate appointments are an exception to the rule of appointment to public posts through public participation. The Court cannot expand this exception, not provided for in the policy, on humanitarian grounds. Once the Scheme as applicable to the Petitioner does not permit consideration of delay on the ground of the Applicant being minor, the relief as sought for by the Petitioner cannot be granted.

7. The Writ Petition is accordingly rejected.

[ANIL S. KILOR, J.]

[NITIN JAMDAR, J.]