

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 5984/2019.

Sou. Sowarnkala Janaradhan Khatod. Petitioner.

-VERSUS-

1.State of Maharashtra and others. Respondents.

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Shri P.H. Khobragade, Advocate (Appointed) for the Petitioner.

Shri D.P. Thakare, Additional Government Pleader for the Respondent No. 1.

Shri A.M. Ghare, Advocate for the Respondent No.2 and 3.

Shri G.A. Kunte, Advocate for the Respondent No.4.

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

DATE : 17 FEBRUARY 2021.

P.C.

Heard the learned Counsel for the Parties.

2. The Petitioner has filed this Petition for a direction to set aside the order dated 5 February 2019 and 26 February 2019 issued by the Respondent Nos. 3 and 4 i.e. the Maharashtra State Power Generation Corporation. The Petitioner has sought a direction to the Corporation to grant compassionate employment to the

Petitioner.

3. The post which the Petitioner seeks is a public post. It is settled by long line of decisions that public post will have to be filled in through open public advertisement. It is also stated that the appointment on compassionate ground and the schemes thereof are exception to these general Rules. The object of the compassionate appointment is to assist the bereaved family of the deceased employee to cope up with the sudden loss of the bread earner. That being the object, the Courts have emphasized on immediate action to be taken by the applicant, as presumption that follows from delay is that the family is able to cope with the situation.

4. Without going into the reply, from the petition itself it can be seen that the Petitioners' father expired on 9 November 1997 and the first application was made on 9 August 2016. That being the 1702position, while issuing a writ as sought for by the Petitioner, this aspect of delay will have to be kept in mind.

5. The learned Counsel for the Petitioner has sought to rely upon the decision in case of *Archana Ganesh Desai Versus The State of Maharashtra and others* (Writ Petition No. 2311/2018 dated 28 November 2018). However, this decision is not applicable, as it does not consider the ground of delay, but, the issue therein was entitlement of a married daughter. The second decision relied upon by the Petitioner is of Division Bench of this Court in case of *Smt. Anusuya Bhanudas Mangrulkar and another Versus*

Maharashtra State Electricity Distribution Co. Ltd and others (Writ Petition No. 3176/2018 dated 11 December 2019), for the purpose that in case of another similarly situated employee the benefit was given, and therefore, Petitioner's case should be considered.

6. The Apex Court has emphasized in series of cases that compassionate employment being an exception, the Court should not, on benevolent considerations, expand the scope of the Scheme. Merely because the relief is granted to one employee incorrectly, it cannot be granted to other.

7. In view of above discussion, no case is made out for exercise of writ jurisdiction. Writ Petition is rejected.

8. Fees of the appointed Advocate be paid as per Rules.

(ANIL S. KILOR, J)

(NITIN JAMDAR, J)

Rgd

Rakesh
Dhuriya

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by Rakesh
Dhuriya
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2021.02.25
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