

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

WRIT PETITION NO. 3988 OF 2021

Ravindra Sahebrao Tarange
and another

.. Petitioners

Versus

The State of Maharashtra and others .. Respondents

Shri Yuvraj R. Barhate, Advocate for the Petitioners.

Shri K. N. Lokhande, A.G.P. for the Respondent Nos. 1 and 4.

Shri Sushant V. Dixit, Advocate for the Respondent Nos. 2 and 3.

**CORAM : MANGESH S. PATIL AND
SANDEEP V. MARNE, JJ.**

DATE : 12.09.2022.

FINAL ORDER (*Per Sandeep V. Marne, J.*) :-

. By the present petition, the petitioners challenge the communications dated 03.10.2016 and 24.11.2016, by which their request for substitution of name of the petitioner No. 2 with that of petitioner No. 1 has been rejected on the ground that there is no provision for substitution of name for compassionate appointment. The decision of this Court in the case of **Dnyaneshwar Ramkishan Musane Vs. The State of Maharashtra and others in Writ Petition No. 6267 of 2018 decided on 11 March 2020** is relied upon to contend that this Court has set aside restriction imposed by the Government Resolution dated 20.05.2015 on substitution of name of legal representatives for consideration for compassionate appointment.

2. In the present case, initially name of the petitioner No. 2 was deleted from the waiting list upon attaining age of 40 years on 03.10.2010. That decision was challenged in Writ Petition No. 9460 of 2014 and on account of raising the age bar from 40 years to 45 years, the name of the petitioner No. 2 was directed to be continued in the waiting list. By communication dated 24.08.2015, the name of the petitioner No. 2 was re-included in the wait list with a rider that upon attaining age of 45 years on 03.10.2015, her name would again be deleted. About two months before attaining age of 45 years, the petitioner No. 2 applied for substitution of her name with that of her son i. e. the petitioner No. 1. By the impugned communication their request is turned down.

3. We must note at the outset that the request of the petitioners for substitution of name has been rejected by communications dated 03.10.2016 and 24.11.2016 and the present petition is filed after inordinate delay of five long years on 11.02.2021. We find that in respect of grievance of grant of compassionate appointment, this delay of five years in filing the petition is clearly fatal. In the light of this peculiar fact, we do not wish to enter into other controversy and the permissibility of substitution of name in the waiting list.

4. Mr. Dixit, learned counsel appearing for the respondent Nos. 2 and 3 has relied upon the decision of the Apex Court in the case of **Central Coalfields Limited Vs. Parden Oraon** reported

in ***AIR Online 2021 SC 190***, in which it is held in para No. 8 as under :

8. The whole object of granting compassionate appointment is to enable the family to tide over the sudden crisis which arises due to the death of the sole breadwinner. The mere death of an employee in harness does not entitle his family to such source of livelihood. The authority concerned has to examine the financial condition of the family of the deceased, and it is only if it is satisfied that but for the provision of employment, the family will not be able to meet the crisis that the job is offered to the eligible member of the family 1. It was further asseverated in the said judgment that compassionate employment cannot be granted after a lapse of reasonable period as the consideration of such employment is not a vested right which can be exercised at any time in the future. It was further held that the object of compassionate appointment is to enable the family to get over the financial crisis that it faces at the time of the death of sole breadwinner, compassionate appointment cannot be claimed or offered after a significant lapse of time and after the crisis is over.

5. Mr. Dixit has also relied upon the decision of the Apex Court in the case of **Steel Authority of India Limited Vs. Gouri Devi** reported in ***AIR Online 2021 SC 1048***, in which it is held as under :

5.2 As held by this Court in the case of Punjab State Power Corporation Limited and Ors. Vs. Nirval Singh, (2019) 6 SCC 774 delay in pursuing claim/approaching court would militate against claim for compassionate appointment as very objective of providing immediate amelioration to family would stand extinguished. Before this Court, there was a delay of 07 years in approaching the Court and this Court observed and held that on the ground of delay itself, the heir/dependent of the deceased employee shall not be entitled to the appointment on compassionate ground.

5.3 In the case of State of J&K and Ors. Vs. Sajad Ahmed Mir (2006) 5 SCC 766, this Court had occasion to consider the delay and laches in case of appointment on compassionate ground. By dismissing the claim for appointment on compassionate ground, which was made after a period of four and a half years of death of the deceased employee, it was held that appointment on compassionate ground is an exception to general rule that appointment to public office should be made on the basis of competitive merits. It is further observed that once it is proved that in spite of the death of the breadwinner, the family survived and substantial period is over, there is no need to make appointment on compassionate ground at the cost of the interests of several others ignoring the mandate of Article 14 of the Constitution.

6. Thus, it is trite that in a case relating to compassionate appointment, delay in approaching the Court is extremely fatal. In the present case, despite turning down request for substitution of name in the year 2016, the petitioners waited for five long years before filing the petition. Apart from this, the death has occurred on 23.08.2005 and by now a period of seventeen long years has lapsed. We, therefore, do not find this is to be a fit case to be entertained. The petition suffers from delay and laches. The same is dismissed without any orders as to costs.

[SANDEEP V. MARNE, J.]

[MANGESH S. PATIL, J.]