

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO. 5586 OF 2021

Swapnil Asaram Padvi,  
Age. 32 years, Occ. Service under MMB scheme,  
R/o. 66A, Sonabai Nagar, Nandurbar,  
Tq. Nandurbar, Dist. Nandurbar.

....Petitioner

Versus

1. The Maharashtra State Electricity  
Distribution Company Ltd.,  
Prakashgad, 4<sup>th</sup> Floor,  
Station Road, Bandra (E) Mumbai – 51  
Through its Managing Director.
2. The Assistant Managing Director,  
The Maharashtra State Electricity  
Distribution Company Ltd.,  
Jalgaon Zone, Jalgaon  
Old Industrial Area,  
Ajantha Road, Jalgaon.
3. The Chief Engineer,  
The Maharashtra State Electricity  
Distribution Company Ltd.,  
Jalgaon Zone, Jalgaon  
Old Industrial Area,  
Ajantha Road, Jalgaon.
4. The Executive Engineer,  
The Maharashtra State Electricity  
Distribution Company Ltd.,  
Pachora, Jalgaon.

....Respondents

Advocate for Petitioner : Mr. A.R. Syed h/f. Mr. S.P. Brahme

Advocate for Respondent Nos. 3 & 4 : Mr. A.S. Shelke

Respondent No. 2 deleted as per order dated 25.08.2021

**CORAM : C.V. BHADANG &  
SANDIPKUMAR C. MORE, JJ.**

**DATE : 13 JULY, 2022.**

**ORAL JUDGMENT [PER : C.V. BHADANG, J.] :-**

Rule made returnable forthwith. Learned counsel for the respondents waive service. Heard finally by consent of parties.

2. By this petition, the petitioner is challenging the impugned order / letter dated 29 May, 2019, passed by the first respondent, thereby, refusing to consider the claim of the petitioner for appointment on compassionate ground in the place of his deceased father for the reason that the deceased had committed suicide.

3. Asaram Padvi, father of the petitioner, was employed with the first respondent as an Assistant Accountant. He expired on 6 September, 2017, while in service on account of commission of suicide.

4. The first respondent called upon the petitioner to submit the claim for appointment on compassionate ground and, accordingly, the application was put forth. It is undisputed that on 30 July, 2018, the petitioner has been given appointment under the Monthly

Monetary Benefit Scheme (MMBS) on a fixed salary of Rs. 4000/- per month. However, the claim of the petitioner is for regular employment on compassionate basis.

5. It appears that the relevant Scheme / Rules applicable for employment of the sons / daughters of the deceased employee is found in Appendix 'G' to the Recruitment Regulations framed by respondent No. 1. Rule 1 of the scheme reads thus :

“1. The scheme shall cover the cases of the dependent of the employees who on due selection by the Competent Selection Committee was working either against permanent or temporary or supernumerary posts and –

(i) who expired while in service (which shall also include the cases wherein the competent court declared an employee as ‘nowhere’ or ‘dead’ in case of missing employee).

or

(ii) who met with non-fatal accident while on duty and declared permanent total disabled for employment and whose services are terminated by declaring him invalidated from service.

or

(iii) who are permitted to retire prematurely on medical ground before attaining the age of 50 years.

or

whose services are terminated by declaring him invalidated from service on account of incapacitation for service by bodily or mental infirmity.

Explanation :- Words " retired prematurely on medical grounds" means those employees who are permitted to retire prematurely on medical grounds by declaring them invalidated and/or whose services are terminated, being declared medically unfit and invalidated before attaining the age of 50 years.”

6. As the competent authority was in doubt whether a case of an employee committing suicide is covered under the said scheme, the matter was referred to the Managing Director in accordance with regulation No. 13 which reads thus :

“13. The Managing Director in consultation with Executive Director (HR), Director (Operation) and Director (Finance) shall be the Competent Authority to permit the deviation in deserving cases which do not squarely fall within the ambit of coverage of the scheme and held the dependent eligible for compassionate appointment as a special case on merit.”

7. The Managing Director by the impugned communication and after consultation with the other Directors and referring to regulation 13, refused to grant approval to the appointment which brings the petitioner to this Court.

8. We have heard the learned counsel for the parties and perused record.

9. Learned counsel for the petitioner submits that the case of an employee committing suicide during service, is not excluded under Rule 1 (i). In the submission of the learned counsel, the term “who expired while in service” is of wide amplitudes and would take into its ambit even a case where the concerned employee has committed suicide. He submitted that the said term has to be interpreted in the context of the object of compassionate employment. It is submitted that the object of the scheme is to prevent destitution of the family members which results irrespective of whether the employee meets

natural death or unnatural death on account of suicide or any other accidental circumstances.

10. Learned counsel for the respondent placing reliance on Rule 13 has submitted that the matter has been considered by the Managing Director and in terms of the said scheme which does not include a case of the employee dying on account of commission of suicide has rightly refused to approve the appointment. He points out that the petitioner has already been employed under the MMBS and is getting fixed salary of Rs. 4,000/- per month.

11. We have given our anxious consideration to the rival circumstances and the submissions made.

12. There cannot be any manner of doubt, that the object and purpose of the scheme for compassionate employment, (which has to be seen as an exception to the regular public employment) is to prevent destitution of the family members / dependents of an employee who dies in harness, resulting into sudden loss of the sustenance. Thus, as rightly submitted on behalf of the petitioner, the object is to prevent such destitution of the family and to provide immediate support. The provisions of any such scheme / rules for a compassionate employment have to be appreciated and interpreted in the context of the object of such scheme. In the present case, the term “an employee who expired while in service”, if interpreted in the context of the object and the purpose of the scheme of compassionate

employment, would include a case where the employee dies in harness, may be on account of unnatural circumstances of commission of suicide. It is necessary to note that the scheme and the Rule 1 in terms does not exclude a case of the employee committing suicide. It is necessary to emphasize that the family would suffer loss of income irrespective of the nature of death suffered by the employee who dies in harness. To put it otherwise, it hardly matters from the point of the prevention of destitution of the family members whether the employee meets with natural death or accidental death or a suicidal death. Learned counsel for the respondents submitted that suicidal death is not specifically included in Rule 1. As noticed earlier Rule 1 does not exclude suicidal death either. We would prefer to lean in favour of the interpretation, so as to include suicidal death which in our opinion will advance the object and purpose of the scheme, rather than an interpretation, which would defeat the same.

13. Learned counsel for the respondents has placed strong reliance on the decision of the Supreme Court in **Director of Treasuries in Karnataka and another Versus V. Somyashree, Civil Appeal No. 5122/2021 decided on 13 September, 2021**. We find that the reliance placed is misplaced for the reason that that was a case which concerned the eligibility of the dependent in the capacity of the divorced daughter of deceased to an appointment on compassionate ground. Presently, we are concerned with the dependent of employees who dies in harness on account of commission of suicide. That apart a perusal of the judgment in V. Somyashree (supra) shows that the

divorced daughter was specifically excluded under the relevant Scheme / Rules. We, therefore, find that the said case turned on its own facts.

14. In the result, the petition is allowed. The impugned order is hereby quashed and set aside. The competent authority of the first respondent, shall consider the application of the petitioner for compassionate employment on its own merits and in accordance with the law within a period of six weeks from today. However, the same shall not be rejected on the ground of Mr. Asaram Padvi having committed suicide.

15. Rule is made absolute in the aforesaid terms, with no order as to costs.

**SANDIPKUMAR C. MORE, J.**

**C.V. BHADANG, J.**