

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

906 WRIT PETITION NO.4765 OF 2022

**NIKHIL ARUN PATIL
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...

Advocate for the Petitioner : Shri Dheple Shantaram R.
AGP for Respondents 1 and 2 : Shri P.K. Lakhotiya
Advocate for Respondents 3 and 4 : Shri M.C. Ghode

...

**CORAM : RAVINDRA V. GHUGE
&
ARUN R. PEDNEKER, JJ.**

DATE :- 26th August, 2022

Per Court :-

1. The father of the petitioner, who was the permanent employee and incharge Headmaster with respondent No.4/School conducted by respondent No.3/Society, unfortunately passed away due to Covid-19 on 26.04.2021. The petitioner, who completed his third year B.Sc. education and has also passed MS-CIT, is eligible to be appointed in the non teaching staff. He applied for compassionate appointment on 09.06.2021, which is in less than 45 days from the demise of his father. The said application is still pending.

2. The learned Advocate for the petitioner submits that in the light of *Yogita Shivsing Nikam vs. State of Maharashtra and others, 2022 (2) Mh.L.J. 370*, the ban on recruitment or pendency of the staffing pattern, would not be an impediment for appointing the candidate on compassionate basis.

3. He relies upon *Malaya Nanda Sethy vs. State of Orissa and others, 2022 SCC Online (SC) 684*, to submit that the Honourable Supreme Court expects a decision on an application for compassionate appointment, within six weeks.

4. Paragraphs 16, 17 and 18 of *Malaya Nanda Sethy* (supra) read as under :-

“16. Before parting with the present order, we are constrained to observe that considering the object and purpose of appointment on compassionate grounds, i.e., a family of a deceased employee may be placed in a position of financial hardship upon the untimely death of the employee while in service and the basis or policy is immediacy in rendering of financial assistance to the family of the deceased consequent upon his untimely death, the authorities must consider and decide such applications for appointment on compassionate grounds as per the policy prevalent, at the earliest, but not beyond a period of six months from the date of submission of such completed applications.

17. We are constrained to direct as above as we have found that in several cases, applications for appointment on compassionate grounds are

not attended in time and are kept pending for years together. As a result, the applicants in several cases have to approach the concerned High Courts seeking a writ of Mandamus for the consideration of their applications. Even after such a direction is issued, frivolous or vexatious reasons are given for rejecting the applications. Once again, the applicants have to challenge the order of rejection before the High Court which leads to pendency of litigation and passage of time, leaving the family of the employee who died in harness in the lurch and in financial difficulty. Further, for reasons best known to the authorities and on irrelevant considerations, applications made for compassionate appointment are rejected. After several years or are not considered at all as in the instant case.

18. *If the object and purpose of appointment on compassionate grounds as envisaged under the relevant policies or the rules have to be achieved then it is just and necessary that such applications are considered well in time and not in a tardy way. We have come across cases where for nearly two decades the controversy regarding the application made for compassionate appointment is not resolved. This consequently leads to the frustration of the very policy of granting compassionate appointment on the death of the employee while in service. We have, therefore, directed that such applications must be considered at an earliest point of time. The consideration must be fair, reasonable and based on relevant consideration. The application cannot be rejected on the basis of frivolous and for reasons extraneous to the facts of the case. Then and then only the object and purpose of appointment on compassionate grounds can be achieved.”*

5. The learned advocate representing the Management and the School submits that a decision would be taken on the application filed by the petitioner expeditiously. Since he is the son of the deceased employee, his name would be enlisted in the list of eligible candidates for appointment on compassionate basis in the non teaching category. Based on his serial number in the list of eligible candidates, the petitioner would be considered for appointment in the non teaching category.

6. In view of the above, this Writ Petition is disposed off.

kps

(ARUN R. PEDNEKER, J.)

(RAVINDRA V. GHUGE, J.)