

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

929 WRIT PETITION NO.8789 OF 2021

GANESH HEMCHANDRA CHOUDHARI
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Advocate for Petitioners : Mr. Ramesh I. Wakade
AGP for Respondent Nos.1 to 4 : Mrs.M.A.Deshpande
Advocate for Respondent Nos.5 & 6 : Mr.V.B.Patil

**CORAM : RAVINDRA V. GHUGE &
SANDIPKUMAR C. MORE, JJ.**

DATE : 8th June, 2022

PER COURT:-

1. By this petition, the petitioner has put forth prayer clauses
- B and C as under:

"B) Impugned order dated 28.01.2020 [**Exh."H"**] passed by respondent No.4 – Education Officer (Secondary), Z.P. Nandurbar, by which a proposal seeking approval to appointment of petitioner as "Peon" on compassionate ground was refused may kindly be quashed and set aside.

C) By issuing writ of mandamus or any other appropriate writ or direction, in like nature, respondents may kindly be directed to accord an approval to appointment of petitioner on compassionate ground and further it may be directed to grant all the benefits, salary, emoluments etc. attached to that post and such exercise of approval may kindly be completed within a period of 4 weeks from today."

2. We have considered the submissions of the learned Advocates for the respective sides and perused the paper book. There is no dispute that the father of the petitioner was working as a “Peon” on a permanent post with respondent No.6 School. It is equally undisputed that he passed away while in service on 14th May, 2003. It is also undisputed that the mother of the petitioner (widow of the employee) was enlisted as an eligible candidate for appointment on compassionate basis. However, due to lack of vacancy, she was not appointed. It is further undisputed that the petitioner attained 18 years of age on 2nd June, 2017 and the employer appointed him on compassionate basis as a “Peon” on 1st August, 2018.

3. The Education Officer, while refusing to accord approval vide the impugned order dated 28th January 2020, has cited two grounds. Firstly, that there was a ban on recruitment vide the Government Resolution (GR) dated 2nd May, 2012. Secondly, the staffing pattern was not formalized.

4. The above grounds have already been held to be unsustainable in several judgments delivered by this Court. Vide Judgment dated 11th August, 2021 delivered in *Yogita w/o Shivsing Nikam Vs. State of Maharashtra and others* [2022 (2)

Mh.L.J. 370], it has been held that the above grounds would not be impediments for granting approval to the appointment on compassionate basis.

5. Considering the above, this petition is allowed in terms of prayer clauses – B and C. Needless to state, the approval order should be issued by the Education Officer on or before 5th July, 2022 and all consequential reliefs that the petitioner would be entitled to, including the pay scale, would be made available without further delay.

6. The amount of Rs.15,000/- deposited by the Education Officer in this Court pursuant to the order dated 7th December, 2021, shall be withdrawn by the petitioner alongwith accrued interest, if any, without conditions.

(**SANDIPKUMAR C. MORE**)
JUDGE

(**RAVINDRA V. GHUGE**)
JUDGE