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

934 WRIT PETITION NO.7193 OF 2009

**BABURAO RAGHUNATH FUGARE AND ANR.
VERSUS
THE CHIEF EXECUTIVE OFFICER, RAHURI MUNICIPAL
COUNCIL, RAHURI**

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Mr P. V. Barde, Advocate for petitioners

CORAM : RAVINDRA V. GHUGE, J

DATE : 8th March, 2022

PER COURT:

1. The petitioners are aggrieved by the Judgment dated 15/09/2009, delivered by the Industrial Court, Ahmednagar, vide which, Complaint (ULP) No.50/2006 has been dismissed.
2. Petitioner No.1 is the father of petitioner No.2. Petitioner No.1 joined service with the respondent in 1972 in the Class-IV category. While being in service, he approached the respondent with a medical certificate of the Civil Surgeon, dated 10/09/2004, indicating that the he has hypertension and is unfit to work. He had put up an application to the respondent on 07/06/2004. His application for voluntary retirement was accepted on 30/03/2005. However, his son was not absorbed on the basis of the Lad

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Committee's recommendations. He, therefore, approached the Industrial Court, by filing Complaint (ULP) No.50/2006, seeking a direction that his son be granted employment with retrospective effect and be regularized in employment. In the alternative, he prayed that he should be paid full wages till he attains the age of 60 years.

3. I have considered the strenuous submissions of the learned Advocate for the petitioners and have gone through the petition paper book with his assistance. None has appeared on behalf of the respondent.

4. There is no dispute that the Lad Committee's recommendations led to the introduction of the Government Resolution dated 12/08/1975 for recruiting the eligible person from the family or on the recommendations of the outgoing employee, who has been working in the Sanitation Department, which is popularly known as 'Vashila Paddhat'. The scope of such recommendations for engaging the nominee of the outgoing employee was, the 'Safai Kamgar' should have retired or should have died while in employment or is suffering from Tuberculosis, Cancer, Paralysis leading to physical disablement or even mental disablement. The certificate of the District Civil Surgeon

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certifying such ailments, was the mandate.

5. On 05/11/1992, a further Government Resolution was introduced in the light of the Lad Committee's recommendations, stating therein that even a relative of the outgoing employee, who is taking care of the said employee, would be eligible for such appointment. However, the same conditions as appearing in the earlier Government Resolution dated 06/05/1986 pursuant to the 17/11/1975 Government Resolution, were continued. On 20/03/2001, the State of Maharashtra issued a Government Resolution prescribing compassionate appointment, by referring to the Government Resolution dated 05/11/1992. While modifying certain conditions and setting aside Clause-2 (B, C and D) of the Government Resolution dated 26/10/1994 and while continuing with the Lad Committee's recommendations, it was recorded that an employee should be medically retired prior to the age of 50 years on the ground of serious ailments like, Cancer, Paralysis or suffering an accident leading to disability, so as to appoint the nominee on 'Vashila Paddhat'.

6. In the case in hand, petitioner No.1 acquired the certificate from the District Civil Surgeon, certifying him to be having hypertension and on the basis of hypertension, petitioner No.1

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sought retirement, claiming that he can not perform duties. However, hypertension was not the ground on which 'Vashila Paddhat' could have been made applicable for recruiting the son of petitioner No.1. It appears that petitioner No.1 was under the impression that, once he obtains an unfit certificate on medical grounds from the Civil Surgeon, his son could be accommodated. Unfortunately, the reason cited seeking for retirement did not fit into the scheme and as such, the Management did not grant his son an appointment. For the same reason, the Industrial Court dismissed the ULP Complaint.

7. In view of the above, I do not find that the impugned Judgment could be termed as being perverse or erroneous. This petition, being devoid of merits, is therefore, dismissed.

(RAVINDRA V. GHUGE, J.)

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