

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

WRIT PETITION NO. 628 OF 2022

Bebi Uttam Dhavse
and another

.. Petitioners

Versus

The State of Maharashtra and others

.. Respondents

Mr. R. R. Bangar, Advocate h/f Mr. Irfan D. Maniyar, Advocate for the
Petitioners.

Mr. A. R. Kale, AGP for Respondent No. 1.

Mr. S. R. Yadav-Lonikar, Advocate for Respondent Nos. 2 and 3.

**CORAM : S. V. GANGAPURWALA &
 S. G. DIGE, JJ.**

DATED : 16th FEBRUARY 2022.

PER COURT:-

. The husband of the petitioner No. 1 was in employment of respondent No. 2. He died while in service on 17.11.2008. On 16.07.2009 the petitioner had filed application for appointment on compassionate ground. On or about 24.10.2009 the petitioner No. 1 attained 45 years of age. As per the Government Resolution at the relevant time dated 28.08.2005 the application for compassionate appointment could be considered of an applicant till he attains 40 years of age. On the death of husband of the petitioner No. 1, the petitioner No. 1 had already crossed 40 years of age and she had crossed 45 years

of age on 24.10.2009.

2. Another contention of the learned counsel for the petitioners is that the petitioner No. 2 i.e. son of the deceased could have been considered for appointment and he filed application for appointment on compassionate ground on 08.12.2021.

3. It needs to be considered that the petitioner No. 2 is more than 25 years of age according to the cause title. He could have applied immediately on attaining age of majority. He did not do so. The reliance is placed on the judgment of the Division Bench of this Court dated 11.03.2020 in Writ Petition No. 6267 of 2018 to contend that the name of other legal heir can be substituted.

4. In the present case, the petitioner No. 1 was not eligible to apply seeking appointment on compassionate ground due to age and petitioner No. 2 did not apply for more than seven years upon attaining the age of majority. The petitioner No. 2 is claiming appointment on compassionate ground after almost 13 years of the death of his father.

5. In the judgment of the Division Bench of this Court in Writ Petition No. 6267 of 2018 dated 11.03.2020 (supra) the person died on 06.09.2005. At that time the petitioner therein was only six years of age. The mother had applied. Objection was raised in the year 2013.

The mother of the petitioner gave up her claim and the petitioner on attaining age of majority immediately applied seeking appointment on compassionate ground. In that context, the Division Bench of this Court had delivered the said judgment. In the present case, the petitioner No. 2 did not apply for more than seven years upon attaining age of majority seeking appointment on compassionate ground.

6. In the light of the above, no case for interference is made out.

Writ petition is disposed of. No costs.

(S. G. DIGE)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

PS.B.