

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
962 WRIT PETITION NO.1190 OF 2018

PRADEEP JAGANNATH LAHIRE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Mr. Vaibhav Pawar, Advocate h/f Mr. S. S. Tope, Advocate for the petitioner
Mr. P. K. Lakhotiya, AGP for the respondent Nos. 1 and 2

CORAM : RAVINDRA V. GHUGE &
ANIL L. PANSARE, JJ.

DATE : 15th June, 2022

P. C.

1. The petitioner has putforth prayer clause 'B' which reads as under:-

“B] That by issuing writ of mandamus or any other appropriate writ, order or directions in like nature, the communication/order dated 17-10-2017 issued by respondent No.2 Education Officer, Zilla Parishad, Ahmednagar may kindly be quashed and set aside with further direction to grant approval to the services of petitioner along with consequential benefits.”

2. There is no dispute that the petitioner was entitled and eligible to be appointed on compassionate basis. After the demise of his

father, he was appointed as a Junior Clerk on compassionate basis on 15-06-2017. It is also undisputed that, in a cryptic order dated 17-10-2017 the Education Officer declined approval to the appointment on the ground that the staffing pattern was not formulated when he was appointed. The reason set out by the Education Officer for refusing the approval has been dealt with in several matters in a catena of judgments. This court has concluded that the said ground cannot be an impediment for the appointment on compassionate basis in the light of Government Resolution.

3. In Yogita Shivsing Nikam Vs State of Maharashtra and others, reported in 2022(2) MHLJ, 370, this court has relied upon several judicial pronouncement and the Government Resolutions dated 22-08-2005, 22-03-2012 and 01-03-2014 while coming to a conclusion that non formalization of the staffing pattern cannot be a ground for refusing approval to the appointment made on compassionate basis. The Government Resolution dated 01-03-2014 permitted appointment on compassionate ground to the extent of 10% of the available posts.

4. Since there is no other reason assigned by the Education Officer and as he has not pointed out any legal impediment for disqualifying him, save and except the ground that non formalization of the staffing pattern prevents him from granting approval, we find that the view taken in *Yogita Shivsing Nikam* (supra), squarely applies to the case of the petitioner.

5. In view of the above, this petition is allowed. The impugned order dated 17-10-2017 is quashed and set aside.

6. We direct respondent No.2 to issue the order of approval thereby approving the service of the petitioner from the date of his appointment on compassionate basis, on or before 15-07-2022.

7. Needless to state that, the petitioner would be entitled for all the consequential benefits subject to grant of such approval and the management shall initiate appropriate steps for forwarding the bills for payment of arrears of wages, on or before 30-07-2022 and the

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Education Officer shall ensure that the same are cleared on or before 20-08-2022.

[ANIL L. PANSARE, J.]

[RAVINDRA V. GHUGE, J.]

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