

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO.3146 OF 2021**

Smt. Asharani Chandrakant

Goundaje And Anr.

.. Petitioners

v/s.

The State of Maharashtra & Ors.

.. Respondents

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Mr. S. A. Rajeshirke, for the Petitioners.

Mr. N.C. Walimbe, AGP, for State/Respondent Nos. 1 and 2.

Mr. Makarand Kale, a/w. Mr. Kishor Ajetrao, i/b. Yogesh Sankpal, for Respondent Nos. 4 and 5.

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**CORAM: SUNIL B. SHUKRE &
G.A. SANAP, JJ.**

DATE : 22 MARCH 2022

P.C:-

The Petitioners are seeking compassionate appointment on the post of Clerk for Petitioner No.2.

2. According to the Petitioners, the post of Clerk became vacant in Respondent No.5 School in the year 2019.

3. It is submitted by learned Counsel for the Petitioners that

in spite of the Petitioners' making several applications, one of which is the application made on 9 May 2019, Respondent Nos. 4 and 5 have not taken cognizance of those applications and have not considered in any manner the applications made by the Petitioners. He also submits that immediately after the untimely death of father of Petitioner No.2 and husband of Petitioner No.1, Petitioner No.1 made application for compassionate appointment in the name of her eldest son to the post of Peon, which was earlier occupied by the deceased employee, but the learned Counsel for the Petitioners submits that at that time, the post of Peon was not vacant and therefore, the application made by Petitioner No.1 in the year 2012 could not be considered by Respondent Nos. 4 and 5. He also submits that it was only in the year 2019 that one post of Clerk fall vacant and Petitioner No.2, being eligible to be appointed as Clerk, made an application for his compassionate appointment in the said post.

4. The explanation and the argument submitted on behalf of the Petitioners are not acceptable. Husband of Petitioner No.1 and father of Petitioner No.2 died on 20 February 2012. Petitioner No.1 made an application seeking compassionate appointment on the same post in April 2012. This application was made because post of Peon, which was earlier occupied by husband of Petitioner No.1, had fallen vacant. Therefore, it is unlikely that in April 2012 this post was not available for being filled-up by a suitable candidate. The Petitioners, it

appears, did not make any effort for asserting their claim in respect of compassionate appointment to be given to the eldest son of Petitioner No.1 since April 2012. Although, as stated by learned Counsel for the Petitioners, some representations were made by Petitioner No.1, it is the fact that Petitioner No.1 did not approach this Court within a reasonable time from April 2012 in order to seek redressal of her grievance. It is only in the year 2019 that Petitioner No.1 has approached this Court and even such approach on her part is on a different cause of action, which arose after another application made on 9 February 2019 seeking compassionate appointment to the post of Clerk went unanswered.

5. This long passage of time, in our view, has rendered the claim of the Petitioners as infructuous. The long passage of time has also served the object, for which compassionate appointments are made. It is well settled law that any compassionate appointment, which is made, is an exception to the general rule of open selection and is made only to enable the distressed family overcome financial crisis, which strikes it as an aftermath of untimely death of an earning member of the family. The compassionate appointment has to be granted within a reasonable period of time from occurring of the unfortunate event of death and when it is not granted, the passage of time would itself provide succour to such a family. This has happened in the present case.

6. In the result, we find that this petition is now not maintainable and is dismissed accordingly. No costs.

(G.A. SANAP, J.)

(SUNIL B. SHUKRE, J.)