

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 1587 OF 2021

Vinayak Shivaji Sawant ... Petitioner

Versus

State of Maharashtra and Ors. ... Respondents

Mr. Mandar G. Bagkar, for the Petitioner.

Mr. N. K. Rajpurohit, AGP, for Respondent Nos. 1 and 2-State.

Mr. Prashant Bhavake, for Respondent Nos. 3 and 4.

CORAM : A.S. CHANDURKAR AND G.A. SANAP, J.J.

DATE : 18th APRIL, 2022.

P.C. :

Rule.

2 Rule made returnable forthwith.

3 Heard finally by consent of the parties.

4 The Petitioner is seeking direction to the Respondent Nos. 3 and 4 to grant an appointment as a 'Peon' on compassionate basis in the Respondent No.4-School. The father of the Petitioner was serving as a Assistant Teacher in Respondent No.4-School. He died in harness on 15th May, 1984. The Petitioner and his mother had lost the bread earner. They have no source of livelihood. On 3rd March, 2008, the Petitioner made an application to the Respondent No.2 and requested that he may

be given an appointment in Respondent No.4-School on compassionate ground. The Respondent No.2 issued direction to the Principal of Respondent No.4-School to take appropriate action. It is stated that no action was taken. The Petitioner is denied his right. He pursued the matter with the Respondent Nos. 2, 3 and 4, however, there was no positive response. In the year 2012 also he made an application. There was no response. Finally on 22nd October, 2020, he made an application to the Respondent Nos.2 and 3 and requested that he may be given an appointment as a 'Peon' on compassionate ground.

5 Learned APP argued the matter without filing the reply on behalf of Respondent Nos. 1 and 2. The learned Advocate for the Management also made the submissions. We have gone through the record and proceedings.

6 The learned Advocate for the Petitioner submitted that the Petitioner is entitled to get an appointment as a 'Peon' on compassionate ground. The learned Advocate took us through the documentary evidence and submitted that the Petitioner pursued the matter with different authorities since 2008, however, there has been no positive response. In the submission of the learned Advocate for the Petitioner,

the Petitioner has made out a case to grant him an appointment as a 'Peon' on compassionate ground. The learned APP submitted that there has been inordinate delay in making the application. The conduct of the Petitioner is not consistent with the scheme of the Government in the matter of the appointment on compassionate ground.

7 A perusal of the record would show that the father of the Petitioner died on 15th May, 1984. The application was made for the first time on 3rd March, 2008. It is, therefore, seen that for 25 years there was no application either by the widow of the deceased or by any other legal heir of the deceased. No reason has been mentioned in the Petition. The widow of the deceased could have made the application immediately and requested for giving an appointment to her on compassionate basis. It is seen that this application seems to have been made to get an employment to the Petitioner on his attaining majority. The record would show that the application by the Petitioner was not made within a period of six months from the date of attaining the majority. As per the Government Resolution dated 31st December, 2002 such application must be made within three months from the date of the death in harness. If the application is made by the legal heirs then the same must be made within six months from the date of attaining the

majority (18 years). In this case, the Petitioner has not seriously pursued this matter till 2020. He did not take required steps within time. It is, therefore, seen that there has been inordinate delay. Similarly, the prayer made on other grounds which are undisputed is not tenable.

8 According to us, this long passage of time has rendered the claim of the Petitioner as infructuous. The long passage of time has also served the object for which the compassionate appointments are made. The appointment on a compassionate ground is an exception to the general rule of open selection. The appointment is made only to enable the distressed family to overcome financial crises which strikes in the aftermath of untimely death of an earning member of the family. The compassionate appointment is not a right. If the claim is made after a long time, the same cannot be granted inasmuch as it would show that there were no financial crises. A perusal of the record would show that there is no substance in the Petition. The Petition, therefore, deserves to be dismissed. Hence, the following order.

ORDER

The Writ Petition is dismissed with no order as to costs.

[G.A. SANAP, J.]

[A.S. CHANDURKAR, J.]