

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT NAGPUR, NAGPUR.

...

WRIT PETITION NO. 4113/2019

1) Amol Hiralal Telrandhe
Aged 28 years, occu: Nil
R/o Sant Tukdoji Ward
Near Mahatma Fule School
Hinganghat, Tq. Hinganghat
Dist. Wardha.

2) Smt.Rupa Hiralal Telrandhe
Aged 43 years, occu: Housewife
R/o Sant Tukdoji Ward,
Near Mahatma Fule School
Hinganghat, Tq. Hinganghat
Dist.Wardha.

..Petitioners

versus

1. The State of Maharashtra
Through the Secretary for
Rural Development Department
Mantralaya, Mumbai.

2) The Zilla Parishad
Through its Chief Executive Officer
Chandrapur, Dist. Chandrapur.

.. Respondents

...

Mr.S.M.Vaishnav, Advocate for Petitioners
Mr. K.L.Dharmadhikari, AGP for Respondent 1
Mr. A.P.Thakre, Advocate for Respondent 2

....

CORAM : ROHIT B. DEO &
ANIL L. PANSARE, JJ

DATED : 26th August, 2022.

JUDGMENT: (Per : ANIL L.PANSARE, J.)

Rule. Rule made returnable forthwith. With consent, heard finally.

2. The petitioners are aggrieved by the communication dated 19th February, 2019 issued by respondent No.2-Zilla Parishad, Chandrapur rejecting their request for appointment of petitioner No.1 on compassionate ground. The reason for rejection being that the application was not filed within one year of the date of death of the employee.

3. The petitioner No.1 is the son and petitioner No.2 is the wife of deceased Hiralal V. Telrandhe, who was working as an Assistant Teacher in Panchayat Samiti, Gondpimpri, Chandrapur. He expired in harness on 14th March 2009. The petitioner no.2 submitted an application on 6th April, 2009 to the Block Education Officer, Panchayat Samiti, Gondpimpri, Dist. Chandrapur, requesting for appointment of the

petitioner no.1 on compassionate basis. However, no action was taken by the respondents. On 7th December 2009, the petitioner No.2 then made an application to the respondent no.2-Chief Executive Officer, Zilla Parishad, Chandrapur. The Respondent no.2 sought guidance from the respondent no.1 by stating that the application was filed by the petitioners after a period of one year six months from the date of death of the employee. Thereafter respondent nos. 1 and 2 had communications with each other, which the petitioners were not aware of. Ultimately, by the impugned order dated 19th February 2019, the application seeking compassionate appointment came to be rejected on the ground that the application was filed beyond the prescribed period of one year.

4. By the Government Resolution dated 23rd August, 2005, the State Government has partly modified the policy for compassionate appointment. Prior to 2005, the eligible family members of the deceased employee were entitled to file application within five years of the death of

the employee. The said period has been reduced to one year. However, the other clauses then existing and which were not modified were continued by incorporating a clause to that effect in the G.R.of 2005.

5. The relevant clause of earlier G.R. dated 23rd August, 1996 is Clause No.6, which apparently is not modified in G.R. of 2005, provides that the Establishment Officer should apprise the family members of the deceased Government servant about the scheme for appointment on compassionate ground within fifteen days of the death of such Government servant or at the time of sending his/her papers for family pension.

6. Thus, it is the responsibility of the concerned Officer to furnish the information to the family of the deceased employee about the policy for compassionate appointment. The said information was to be furnished within fifteen days from the date of death of the employee.

7. Mr.Vaishnav, learned Advocate for the petitioners has rightly pointed out that at no point of time, the

respondents herein have discharged the aforesaid burden and, therefore, the plea taken by the respondents that the application filed by the petitioners was time-barred is without any substance. There is nothing on record to even remotely suggest that the petitioners were aware of the policy granting compassionate appointment.

8. We are of the considered opinion that the claim of the petitioner No.1 ought to have been considered by the respondent no.2. We would accordingly expect the respondent no. 2 to consider his case in accordance with the policy then existing. The respondent No.1 has taken about nine years to decline the request of the petitioners. The petitioners were kept on hope for all these years.

9. In the result, the petition is allowed. The impugned communication dated 19.02.2019 issued by the respondent No.2 is quashed and set aside. The respondent No.2 is directed to include the name of the petitioner no.1 in the list of candidates eligible for grant of appointment on compassionate basis and consider the same in accordance

with the policy then existing, as expeditiously as possible and, in any case, within a period of eight weeks from the date of receipt of this order. Rule is made absolute in aforesaid terms. No costs.

[ANIL L. PANSARE,J.]

[ROHIT B. DEO,J.]

sahare