

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

WRIT PETITION NO. 6312 OF 2019

Mohana Devidasrao Ingole,
Amravati

... Petitioner

-vs-

The State of Maharashtra,
Thr. Secretary, Dept. of General
Administration, Mantralaya,
Mumbai and anr.

... Respondents

Shri R. D. Karode, Advocate for petitioner.
Ms Tajwar Khan, Assistant Government Pleader for respondent No.1.
Shri J. B. Kasat, Advocate for respondent No.2.

CORAM : A. S. CHANDURKAR AND URMILA JOSHI-PHALKE, JJ.
DATE : September 22, 2022

P.C.

Heard.

The petitioner seeks appointment on compassionate basis. Her mother was serving as Assistant Teacher with Zilla Parishad, Amravati and she died in harness on 16/06/2010. An application for appointment on compassionate basis was made on 03/07/2010 by the petitioner. The name of the petitioner was taken on the waiting list by the Zilla Parishad and while considering her claim for such appointment, the Chief Executive Officer passed an order on 28/02/2019 rejecting the request of the petitioner on the ground that by virtue of the Government Resolution dated 26/10/1994 and Clause-7(B) thereof, the financial

condition of the family was of such nature that the petitioner was not entitled for compassionate appointment. Being aggrieved, the petitioner has challenged the said order.

2. The learned counsel for the petitioner submits that the sister of the petitioner is suffering from medical ailment and considering the certificate issued by the Medical Board on 15/07/2013, it was necessary to provide appointment on compassionate basis to the petitioner irrespective of the financial condition of the family. According to him the mere fact that the petitioner's father was receiving pension would not dis-entitle consideration of the petitioner's claim. In support of the submission that the amount received towards pension was not liable to be taken into consideration, the learned counsel has placed reliance on the decision of the Madras High Court in Writ Petition (MD) No.10650/2014 (*M. Selvarajan vs. The District Collector, Tirunelveli and anr.*) decided on 18/09/2018. It is therefore submitted that the impugned order was liable to be set aside and the petitioner was entitled to be appointed on compassionate basis.

3. The learned counsel for respondent No.2 by relying upon affidavit in reply opposed the writ petition. He submitted that both the parents of the petitioner were in employment with Zilla Parishad,

Amravati. After the death of the petitioner's mother, the family was receiving amount of family pension of Rs.24,400/- per month. Similarly, the petitioner's father retired on 31/05/2011 and he too was receiving pension of Rs.24,000/- per month. The family was receiving Rs.48,400/- per month and the petitioner was living with the family. Reliance placed on the Government Resolution dated 26/10/1994 was justified and there was no reason to interfere with the said order.

4. Having heard the learned counsel for the parties and having perused the documents on record, we do not find any reason to interfere with the decision taken by the Chief Executive Officer denying appointment on compassionate basis to the petitioner. It is undisputed that the family is receiving Rs.48,400/- per month on account of family pension of the deceased mother and in view of the retirement of the petitioner's father. Consideration of this financial position is in the light of Government Resolution dated 26/10/1994 and Clause-7(B) thereof. The Full Bench of this Court in its judgment in *Nilima Raju Khapekar vs. Executive Director, Bank of Baroda, Baroda and ors.* **2022 (3) Mh.L.J. 441** has held that if in the scheme for appointment on compassionate basis, consideration of financial condition of the family has been prescribed, the same is a material factor which cannot be ignored. Another relevant aspect is that the death of the mother of the petitioner

occurred in the year 2010 and the petitioner's father was in service at the relevant point of time. It is not the case that the family was in financial distress on account of the death of an earning member in the family. The decision relied upon is clearly distinguishable in view of the judgment of the Full Bench referred to above. Period of more than ten years has now elapsed and we do not find any justifiable reason to hold the order rejecting grant of compassionate appointment warrants interference.

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

(Urmila Joshi-Phalke, J.)

(A. S. Chandurkar, J.)

Asmita