

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.6411 OF 2022

(Mamta wd/o Nagendra Chouhan vs. The Sub-Area Manager/Estate Officer,
Western Coalfields Ltd., Umred Sub-Area and another)

Office Notes, Office Memoranda of
Coram, appearances, Court's orders Court's or Judge's orders
or directions and Registrar's orders.

Shri A.S. Dhoble, Advocate h/f Shri O.K. Masurke,
Advocate for petitioner.

CORAM : SUNIL B. SHUKRE AND
ANIL L. PANSARE, JJ.

DATED : OCTOBER 13, 2022

Shri Dhoble, learned Counsel for the petitioner, seeks leave of the Court to amend the petition and also prayer clause in order to enable the petitioner to seek quashing and setting aside of the communication dated 27/7/2022 issued by the respondents on the grounds to be incorporated by way of amendment.

2) The prayer made by the learned Counsel for the petitioner in this regard is oral. However, considering the fact that the notice is yet to be issued, the oral prayer made by the petitioner seeking amendment is granted. Amendment to be carried out forthwith.

3) Shri Dhoble, learned Counsel for the petitioner, seeks a direction to the respondent Authorities to provide service to the petitioner on compassionate ground on account of death of her husband, namely, Nagendra alias Nagesh s/o Jhavari Chauhan in harness, which death occurred way back on 9/10/2014. Now the amended prayer clause also seeks quashing and setting aside of the communication dated 27/7/2022 issued by the respondents whereby the petitioner is directed to vacate the official residence provided to her deceased husband as her occupation of accommodation appears to be without any authority of law.

4) The law on compassionate appointments is well settled. In several judgments delivered by the Apex Court, it has been laid down that the compassionate appointment is something, which stands as an exception to the general rule of appointment to public service by open invitation. It is further held that the general rule is consistent with the rule of equality and fairness as embedded in Articles 14 and 21 of the Constitution of India. It is also held that in view of the general rule of appointment to public service by open invitation, the compassionate appointment, if granted, amounts to making of an exception to the general rule and, therefore, it should be made only for providing

immediate succour to the bereaved family, which suffers on account of financial crisis emerging from sudden and untimely death of the sole bread earner of the family. This law has been followed by this Court in many of its judgments.

5) In the present case, admittedly the death of husband of the petitioner had occurred way back on 9/10/2014, i.e. about eight years back. The petitioner has approached this Court now after the long gap of eight years since death of her husband. This long period of time, which has passed in between, in our considered view, has extinguished the need of the petitioner to seek immediate relief in the nature of compassionate appointment in order to enable her to tide over the financial duress. There is no financial emergency and there is no crisis as well, which befall the family of the petitioner. The very fact that the family of the petitioner has managed to survive for such a long period of time itself shows that the need for rendering of immediate and urgent financial help in the nature of compassionate appointment has disappeared. Therefore, this case would be covered by the law laid down in respect of compassionate appointments.

6) By applying the well settled principles of law, we find that this petition is without any substance and deserves its dismissal. The petition

stands dismissed.

JUDGE

JUDGE

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