

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

WRIT PETITION NO.5627/2017

Mrs. Manda w/o Satish Sahare,
wife/next friend of Mr. Satish
s/o Baldeoji Sahare, aged 58 years,
Occ. Service, r/o Gautam Nagar,
Near Moha Prajapati Gautami Boudha
Vihar, Gaddigodam, Nagpur.

.....PETITIONER

...VERSUS...

1. Chief Executive Officer,
Maharashtra State Khadi & Gramodyog
Mandal, 19/21, Manohar Das Marg,
Fort, Mumbai – 400 001.
2. District Gramodyog Officer,
M. S. K. & G. Mandal
Office at Jambhulkar Niwas,
Baba Mastanshah Ward, Behind,
Syndicate Bank, Bhandara

...RESPONDENTS

Mrs. S. D. Anjankar, Advocate for petitioner.
Mr. D. M. Kakani, Advocate for respondents.

CORAM:- ROHIT B. DEO &
ANIL L. PANSARE, JJ.
DATED :- 10.08.2022

ORAL JUDGMENT (Per: Anil L. Pansare, J.)

This Court, after hearing both the sides, on 15.01.2019,
admitted the matter. Heard Mrs. Anjankar, learned counsel for the
petitioner and Mr. Kakani, learned counsel for respondents.

2. Petitioner's husband was appointed as Junior Clerk on 19.06.1994 and was promoted to the post of Senior Clerk with effect from 09.10.2006. He served regularly till 03.06.2013. Thereafter, because of health issues, he could not attend the office. He sought voluntary retirement on medical ground vide letter dated 06.10.2015 and 01.02.2016. Respondent no.1, vide order dated 25.02.2016 acceded to the request made by the petitioner and issued an order mentioning therein that husband of the petitioner stood retired with effect from 03.06.2013.

3. The petitioner has filed the present petition in the capacity of next friend of her husband and has challenged the order dated 25.02.2016 passed by the respondent no.1 whereby husband of the petitioner was granted voluntary retirement on medical ground with effect from 03.06.2013. The petitioner is also seeking a relief of reinstatement of her husband in service. Thus, on one hand the petitioner has filed petition as next friend of her husband on the count that he is not mentally fit to even file the present petition and on the other hand is seeking reinstatement of her husband in service. We find and record that there is fundamental defect in such challenge.

4. Another relief that has been sought is to consider the request of the petitioner to appoint her son on compassionate ground. The said relief is based on the policy, that was framed by the Government of Maharashtra vide Government Resolution (G.R.) dated 26.10.1994.

5. The learned counsel for respondent has rightly pointed out that the said G.R. has been superseded. Not only the said G.R. but also subsequent three more G.Rs. were considered by the Government of Maharashtra and vide G.R. dated 22.08.2005, for the amended scheme for appointments on compassionate ground was put in place. Our attention has been drawn to clause (2) of the G.R. which states that the compassionate appointment will be available to the relatives of the employees of class 'C' and 'D', who (employees) expire during service. It further provides that the benefit of compassionate appointment to the employees who become incapacitated because of paralysis or accident will not be entitled for compassionate appointment.

6. Thus, the request of the petitioner to extend benefit of compassionate appointment cannot be considered in view of the

revised scheme put forth by the Government for compassionate appointment.

7. Learned counsel for the petitioner has relied upon Section 47 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, in support of his argument that the petitioner husband ought to be reinstated. Section 47 of the Act deals with non discrimination in Government employment. It provides that no establishment shall dispense with or reduce in rank an employee who acquired disability during his service and no promotion shall be denied to a person merely on the ground of his disability.

8. We are unable to find any merit in the reliance placed by the petitioner on the aforesaid provision. The husband of the petitioner has himself made a request for voluntary retirement on medical ground. His request has been favourably considered by respondent no.1. In the circumstances, there arise no question of any discrimination having made against the husband of the petitioner. It is not even the case of petitioner or her husband that because of the disability his services have been dispensed with.

9. The sum and substance of the above discussion is that the petitioner failed to make out a case. There is no merit in the petition. The same stands dismissed.

Rule is discharged. No order as to costs.

(Anil L. Pansare, J.)

(Rohit B. Deo, J.)

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