

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

WRIT PETITION NO.179/2020

Swapnil Gopal Shekokar,
aged about 19 years, Occ. Nil,
r/o Paturda, Tq. Sangrampur,
Dist. Buldhana.

.....PETITIONER

...V E R S U S...

1. The Chief Executive Officer,
Zilla Parishad, Amravati, Tq. Dist.
Amravati.
2. Block Development Officer (Class-1),
Panchayat Samiti,
Nandgaon Khandeshwar

...RESPONDENTS

Mr. R. B. Dhore, Advocate for petitioner.
Mr. D. M. Kale, Advocate for respondents.

CORAM:- A. S. CHANDURKAR & ANIL L. PANSARE, JJ.
DATED :- 12.12.2022

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

Rule. Rule is made returnable forthwith. Heard finally
by consent of learned counsel for the parties.

2. The petitioner has put forth following substantive
prayers:

*“(a) Quash and set aside communication dated
23.09.2019 issued by respondent No.1, the Chief
Executive Officer, Zilla Parishad, Amravati at
annexure ‘J’ thereby rejecting claim of petitioner for*

grant of compassionate appointment in place of his deceased father.

(b) Further issue appropriate directions to respondent No.1, Chief Executive Officer, Zilla Parishad, Amravati to reconsider the proposal of petitioner for grant of compassionate appointment, a fresh by taking into consideration relevant clauses clause 10 (aa) (e) of Government Resolution dated 21.09.2017, in the interest of justice.”

3. The petitioner is aggrieved by the communication dated 23.09.2019 issued by respondent no.1-Zilla Parishad, Amravati rejecting his claim seeking compassionate appointment on the ground that the petitioner has not submitted his claim within one year from the date of demise of his father, who was working as Live Stock Development Inspector in Panchayat Samiti, Nandgaon Khandeshwar under respondent no.1. He expired in harness on 12.07.2012.

4. We have considered the rival submissions. The date of birth of petitioner is 07.05.2001. His father expired on 12.07.2012. The petitioner was eleven years old. The mother of the petitioner filed an application on 20.08.2014 seeking the compassionate appointment for her son viz. the petitioner. Second such application was submitted on 06.04.2016. The respondent no.1 has however declined the request by referring to clause 10(a)

of the Government Resolution dated 21.09.2017, by stating that the petitioner ought to have filed an application on or before 12.12.2013 and that the same has been filed on 26.08.2019.

5. We find that the petitioner has filed an application immediately on becoming major. The petitioner became 18 years old on 07.05.2019. He has filed an application within four months of becoming major. In the circumstances, the petitioner's application, in our considered view, will be governed by clause 10(aa) of the Government Resolution dated 21.09.2017, which provides for procedure to be followed in granting compassionate appointment.

6. Clause 10(a) provides that eligible relative of the family of the deceased employee shall apply for compassionate appointment within one year of the date of death of the employee. The respondent no.1 has relied upon the said clause. This approach, according to us, would only indicate non application of mind because the very next clause i.e. clause 10(aa) provides that if any legal heir of the deceased employee is minor at the time of the death of the employee, the minor heir shall submit the application seeking compassionate appointment within a period of one year from the date of attaining majority.

7. There is absolutely no dispute that the petitioner was minor when his father expired and that he has submitted an application within one year of becoming major. His application, thus, could not have been rejected by the respondent no.1 by relying upon clause 10(a). The facts clearly demonstrate that the application of the petitioner will be governed by clause 10(aa) of the Government Resolution dated 21.09.2017.

8. In the result, having found substance in the petition, we proceed to pass the following order.

The writ petition is allowed in terms of prayer clauses (a) and (b) with a further direction to the respondent no.1 to consider the request of the petitioner strictly in accordance with the provisions of law.

No order as to costs.

(Anil L. Pansare, J.)

(A. S. Chandurkar, J.)

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