

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

3 WRIT PETITION NO.1612 OF 2023

HARSHADA RADHAKISAN CHITRAK
VERSUS
THE STATE OF MAHARASHTRA,
THROUGH ITS SECRETARY AND OTHERS

...
Advocate for Petitioner : Mr. Walmik S. Jadhav.
AGP for Respondent No.1 : Mr. S. G. Karlekar.
Advocate for Respondent Nos.2 & 3 : Mr. V. C. Patil, h/f Mr. U. B. Bondar.
...

CORAM : **RAVINDRA V. GHUGE &
SANJAY A. DESHMUKH, JJ.**

DATE : 27th February, 2023.

Per Court:

1. On 13th February, 2023, we had passed the following order:-

“1. The petitioner is the daughter of the employee who was working with respondent nos.2 and 3. He passed away while on duty on 22.08.2021. An application for compassionate appointment has been filed by the petitioner-daughter, on 23.03.2022.

2. The Zilla Parishad has taken a stand that such scheme is not applicable to the father of the petitioner. The petitioner relies upon a recent judgment delivered on 20.08.2022 in Writ Petition No.9119 of 2021 filed by **Amol Sahebrao Suryawanshi. V/s. The State of Maharashtra and Others**. It was concluded that the Zilla Parishad has erred in rejecting the case of the petitioner for compassionate appointment

solely on the ground that the salary of the deceased employee was been paid through the self generated funds / income of the Zilla Parishad. The same stand has been taken in this case by the Zilla Parishad vide the impugned order dated 29.09.2022.

3. Issue notice to the respondents, returnable on 27.02.2023. The learned AGP waives service of notice on behalf of respondent no.1. Shri Bondar learned advocate waives service of notice on behalf of respondent nos.2 and 3.

4. This matter would appear in the urgent orders category in view of the earlier judicial pronouncement by a Coordinate Bench of this Court.”

2. Having perused the impugned order, it is apparent that the claim of the petitioner has been turned down only on the ground that her father was appointed by the Zilla Parishad from the Self Generated Funds. In ***Amol Sahebrao Suryawanshi Vs. The State of Maharashtra and others*** (supra), this Court has concluded in paragraph 13 and 14 as under:-

“13. There is no dispute that the compassionate appointment scheme formulated by the State Government has been adopted by the respondent/Zilla Parishad. On perusal of the said scheme formulated vide Government Resolution dated 21.09.2017, it is clear that the said scheme has not created any separate group of employees who are

paid from self generated funds/income of the Zilla Parishad. No document is produced on record by the respondent Zilla Parishad to demonstrate that while adopting the scheme formulated by the State Government, the respondent Zilla Parishad has specifically excluded the employees paid from self generated funds/income of the Zilla Parishad.

14. Undeniably the petitioners' father came to be regularized in service of the Zilla Parishad by order dated 06/14.09.2018. The said order not only treats petitioners' father as regular Zilla Parishad employees with effect from 01.04.1995, but it uses the words 'आवश्यक त्या सर्व प्रयोजनार्थ' (for all necessary purposes). Thus, the employees included in the order dated 06/14.09.2018 would be entitled to all the benefits which are admissible to the employees on regular establishment of the Zilla Parishad. Therefore, it is difficult to comprehend as to how the petitioners' father could be treated as belonging to a separate group of employees being paid from self generated funds/income of the Zilla Parishad, even after passing order dated 06/14.09.2018. In fact, by the said order, petitioners' father was brought on the regular establishment of the Zilla Parishad."

3. The learned advocate for the petitioner submits that the father of the petitioner was regularized in employment on 13th December, 2017. The family is also receiving pension, which indicates that the service of the deceased was regularized.

4. The learned advocate for the Zilla Parishad submits that

now the petitioner's case would be covered by clause (6) below annexure-'A' of the Government Resolution dated 21st September, 2017, which indicates that a family having more than 2 children, born after the cut-off date 31st December, 2001, would not be eligible for compassionate appointment. This ground has not been taken by the Zilla Parishad while passing the impugned order.

5. In view of the above, this petition is partly allowed. Keeping in view the law laid down by this Court in ***Amol Sahebrao Suryawanshi Vs. The State of Maharashtra and others*** (supra), the impugned order dated 29th September, 2022, is quashed and set aside.

6. The case of the petitioner is remitted to the Zilla Parishad for being reconsidered. We make it clear that whatever grounds the Zilla Parishad seeks to invoke while dealing with such application, the same shall be reflected in the order that would be passed. We direct the Zilla Parishad to pass an order, on or before 31st March, 2023 and a copy be served upon the petitioner, expeditiously.

[SANJAY A. DESHMUKH, J.]

[RAVINDRA V. GHUGE, J.]