

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

909 WRIT PETITION NO.5667 OF 2023
WITH WP/5220/2023

SONALI CHANDRAMOHAN GHODKE RAWAYE
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS PRINCIPAL
SECRETARY AND OTHERS

Mr.Shrimant Mundhe, Advocate for the Petitioner.
Mr.P.S.Patil, AGP for Respondent Nos. 1 and 2.
Mr.A.A.Jagatkar, Advocate for Respondent Nos. 3 and 4 in WP
No.5667/2023.
Mr.S.W.Munde, Advocate for Respondent No.3 in WP No.5220/2023.

(CORAM : RAVINDRA V. GHUGE AND
Y. G. KHOBRAGADE, JJ.)

DATE : DECEMBER 5, 2023

PER COURT :

1. The Petitioner in WP No.5667/2023 is a 41 years old married woman, who is residing with her husband in the State of Madhya Pradesh. The widow of the deceased bread earner, mother of the Petitioner, is not arrayed as a Respondent or a co-Petitioner. The widow is resident of Aurangabad. She has a son, who is also not arrayed as a Co-Petitioner or a Respondent. The name of the said son is in the list of eligible candidates for compassionate appointment after

the father of the present Petitioner passed away on 25.10.2012. The Petitioner has two more younger sisters.

2. The Petitioner, who has kept her mother (widow), her two sisters and her brother, whose name is already enlisted in the waiting list, away from this Petition, has filed a photostat copy of a fitness certificate issued to her brother by the Civil Surgeon, Aurangabad in which it is stated that the said son is unfit due to Bipolar Disorder. Before declaring a person as mentally challenged, a series of investigations are necessary and no such papers are placed before this Court.

3. Apparently, the deceased bread earner has left behind the son who is enlisted and 2 more daughters namely Rupali and Sapana, besides the present Petitioner. By this Petition, the Petitioner prays that the name of her brother be deleted from the waiting list of eligible candidates and her name should be included in the said list, although she is married and residing in Madhya Pradesh. There are 2 more daughters, who are younger to the present Petitioner and they also have been kept away from this Petition.

4. In addition to the above, details about the total retiral benefits received by the widow and the pension amount being paid to her, have not been disclosed in this Petition. It is more than 10 years and 10 months that the bread earner has passed away.

5. In the light of the above, the following judgments of the Hon'ble Supreme Court would be applicable :-

(a) *Fertilizers and Chemicals Travancore Ltd. And others. Vs. Anushree KB, (2022) SCC Online SC 1331.*

(b) *Director of Treasuries in Karnataka vs. Somyashree, (2021) SCC Online SC 704.*

(c) *State of Uttar Pradesh and others vs. Premlata, (2022) 1 SCC 30.*

(d) *Ahmednagar Mahanagar Palika vs. Ahmednagar Mahanagar Palika Kamgar Union, 2022 (III) CLR 859.*

6. A photostat copy of an affidavit dated 08.01.2022 is placed on record to contend that the widow, the brother, who is enlisted and the 2 unmarried sisters of the present Petitioner who are residing with the widow, have no objection to appoint the present Petitioner. The Hon'ble Supreme Court has laid down the law that compassionate

appointment is neither a right, nor a source of employment. If at all compassionate employment is to be granted, it should be to a person who is taking care of the widow and the unmarried daughters. The unmarried sisters and the widow are residing with the brother of the Petitioner at Aurangabad. Whereas, the Petitioner is spending marital time in Madhya Pradesh. As such, we do not deem it appropriate to give any weightage to such affidavit.

7. Considering the above, we do not deem it appropriate to entertain this Petition on account of laches and non joinder of parties. So also, this Petition is bereft of material information with regard to the retiral benefits and the pensionary benefits being received by the widow.

8. In view of the above, WP No.5667/2023 stands dismissed.

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9. The learned Advocate for the Petitioner seeks liberty to withdraw this Petition on instructions.

10. In view of the above, WP No.5220/2023 is also disposed off as withdrawn, on instructions.

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)