

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

WRIT PETITION NO. 772 OF 2022

Sourabh Vasant Salve

...Petitioner

Versus

The State of Maharashtra & Anr.

...Respondents

.....

Mr. N. L. Chaudhari – Advocate for the petitioner

Mr. S. K. Tambe – AGP for respondent/State

.....

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

DATED : 18th APRIL 2023

PER COURT : -

1. By this petition filed on 18th September, 2020, the petitioner seeks to challenge the communication dated 18th September, 2014 issued by the Municipal Corporation, Dhule.

2. One communication is addressed to the biological brother of the petitioner, namely, Yogesh Vasant Salve. Yogesh had applied for compassionate appointment in place of his father, who passed away on 15th September, 2005. Yogesh is informed by the Municipal Corporation that since he has already been appointed as a Police Sepoy from 18th January, 2012, there is no question of considering his request for compassionate appointment.

3. The impugned communication is dated 18th September, 2014 addressed to the petitioner – Sourabh, vide which he is intimated that as the name of Yogesh was initially entered in the list of eligible candidates for compassionate appointment, the name of the present petitioner cannot be introduced by substitution.

4. This Court has already concluded in the case of **Dnyaneshwar s/o Ramkishan Musane Versus The State of Maharashtra and others** reported in 2020(5) M.L.J. 381, wherein clause no. 1 (C) in the Government Resolution dated 20.05.2015, has been held to be *ultra vires* since it precludes substitution of name for compassionate appointment. As such, the substitution of the name of the petitioner in place of Yogesh, who is already appointed as a Police Sepoy, did not face any impediment.

5. The issue before us is as to whether the case of the petitioner can be considered for compassionate appointment. The petitioner's father namely, Vasant, passed away on 15th September, 2005. He was working as a Driver with the Municipal Corporation. After his death, apparently the family received the post service benefits/gratuity and pensionary benefits. These facts are not divulged in the pleadings in his petition. So also, the present petitioner was directed by the Court vide order dated 05th April, 2023 to state, as to whether the petitioner is married and has children.

6. The learned advocate for the petitioner submits today, on instructions, that the petitioner is around 35 years of age and is married. He, however, does not have children. The question is, as to whether compassionate appointment could be granted to a candidate whose father passed away on 15th September, 2005, which is almost 17 years ago. The purpose of compassionate appointment is to render immediate financial assistance and succour to the bereaved family. Having eked out life and having got married and settled in life, we are of the view that the request of the petitioner to be considered for compassionate appointment would defeat the very purpose for which such scheme is introduced. Considering the law laid down by the Hon'ble Supreme Court in the cases of **Fertilizers and Chemicals Travancore Ltd. V. Anusree K. B. ,** AIR 2022 SC 4766 and **The State of West Bengal Vs. Debabrata Tiwari and Ors.** reported in MANU/SC/0200/2023, we are unable to accept the request of the petitioner to direct the Municipal Corporation to consider his case for compassionate appointment after 17 years of the demise of his father.

7. In view of the above, this petition, being devoid of merits, is dismissed.

[SANJAY A. DESHMUKH]
JUDGE

[RAVINDRA V. GHUGE]
JUDGE