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

P-1 WRIT PETITION NO.7580 OF 2022
WITH CA/509/2023 IN WP/7580/2022

SMT. ASHABAI BAJIRAO ATHWALE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
SECRETARY AND OTHERS

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Mr S. B. Bhosale, Advocate for Petitioners;
Mr P. S. Patil, A.G.P. for Respondent Nos.1, 2 & 4
Mr B. B. Bhise, Advocate for Respondent No.3
Mr Vivek Dhage, Advocate for Respondent Nos.5 & 6
Mr R. R. Kale, Advocate for Respondent No.7

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

DATE : 7th September, 2023

PER COURT:

1. In this petition, Petitioner No.2, who is a compassionate appointee and has joined as a 'Peon', claims that the Management extracted an undertaking from her, dated 10/09/2022. By the said undertaking, Petitioner No.2 claims that, she was forced to declare that, once she has joined as a 'Peon', she will continue to remain a 'Peon' in her entire service tenure, even if she acquires higher qualification. The Petitioner further claims

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that, she is M.A. in Social Science and B.Ed. in Geography and Marathi.

2. The learned Advocate for Respondent No.6/ Management submits that, the Petitioner No.2 cannot even write a simple application and the Management has it's own doubts, as to how the Petitioner No.2 acquired such qualifications. Petitioner No.2 submits that she is armed with the degrees of Universities and these degrees are unquestionable.

3. In our view, this controversy can be granted a quietus in the light of the Government Resolution of the Government of Maharashtra, dated 31/12/2002, which considers the earlier Government Resolution dated 23/08/1996 and lays down a condition as is set out in clause 6-A and 6-B read with clause 10, which indicates that, if a compassionate appointee, who has joined in the Class-IV category, has acquired or has higher qualification, by which the candidate can be held eligible for appointment to any post in the Class-III category or higher class category, such candidate will have to make an application and that would be considered by following the due procedure laid down for selection to the said post.

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4. The learned Advocate for the Management submits that, the Government Resolution dated 31/12/2002 is binding upon the Petitioner.

5. In view of the above, this Writ Petition need not be kept pending. The Petitioner can be considered in terms of the aforesaid Government Resolution, if she makes an application for any post superior than the position she is presently occupying. Her case would be considered strictly in accordance with the Government Resolution and the policies/law applicable.

6. In view of the above, **this Writ Petition stands disposed off.**

7. **Pending Civil Application** would not survive and the same **stands disposed off.**

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)

sjk