

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

Writ Petition NO. 2153 OF 2022

Kirankumar s/o Balaji Yelge
Age 26 years, Occ. Nil
R/o. Chandola, Tq. Mukhed
District Nanded

...Petitioner

versus

1. The State of Maharashtra
Throng its Principal Secretary
General Administration Department
Mantralaya, Mumbai 32
2. The State of Maharashtra
Through its Principal Secretary
Home Department
Mantralaya, Mumbai 32
3. The Superintendent of Police,
Nanded
4. The Collector, Nanded

...Respondents

.....
Mr. H.P. Randhir h/f Mr. A.S. Shivpure, advocate for the Petitioner
Mr. S.G. Karlekar, A.G.P. for Respondents
.....

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

**Date of Reserving
the Judgment : 04.01.2023**

**Date of pronouncing
the Judgment : 10.03.2023**

JUDGMENT (PER SANJAY A. DESHMUKH, J.):

1. Rule. Rule made returnable forthwith and heard finally
by the consent of the parties.

2. By this Writ Petition, the Petitioner has prayed for appointment on compassionate ground as per the application submitted by him to Respondent No.3, the Superintendent of Police, Nanded.

3. The Petitioner has contended that his father, Balaji Yelge was a police Head Constable at Nanded. He died in harness on 17.9.2004. The mother of the Petitioner also died on 13.5.2005. At that time, the Petitioner and his brother were minors. Therefore, they could not submit an application for appointment on the compassionate ground.

4. The Petitioner submitted the application to Respondent No.3, for his appointment on compassionate ground, initially on 20.7.2015 and thereafter, on 01.11.2017. There was a considerable delay in submitting those applications, therefore, he prayed for condonation of delay. Upon which, Respondent No.3, by its order dated 25.9.2020, communicated that such huge delay cannot be condoned.

5. The Petitioner, by this Writ Petition, challenged the impugned order of Respondent No.3. It is contended that due to the sudden death of his parents, he could not apply within reasonable time for his appointment on compassionate ground. He was minor at

that time. The Petitioner further submitted that there is no source of income to his family. He is bachelor. His brothers are depending upon him. There is no pensionary benefits to his family as his mother died immediately after the death of his father. In view of the above, he prayed for appointment on compassionate ground.

6. The learned advocate for the Petitioner submitted that there is no source of income to the Petitioner. He is educated, however, his name is not listed in the seniority list maintained by Respondent No.3 for making appointment on compassionate ground. He submitted that considering the fact that at the time of deaths of his parents he was minor. Therefore, he could not make an application within reasonable period He prayed that he be appointed on compassionate ground by allowing this Writ Petition.

7. Shri Karlekar, the learned A.G.P. for the Respondents submitted that the facts and circumstances of the present case show that the Petitioner is 26 years old. He had not applied for appointment on compassionate ground within a reasonable time after attaining age of 18 years. There is no such dire necessity or economic crisis of livelihood to the family of the Petitioner. Therefore, rejection of the claim of the Petitioner by Respondent No.3, on the ground of unreasonable delay, is justifiable. He therefore, prayed for rejection of this Writ Petition.

8. We find that the representations made by the Petitioner initially on 20.7.2015 and thereafter, on 01.11.2017, do not disclose as to how the Petitioner is suffering financial problems because of the death of his father. At the time of filing of this Writ Petition, in the year 2022, the Petitioner was 26 years old. The compassionate appointment is not statutory right.

9. 18 years and 5 months have passed after the death of the Petitioner's father. The application for compassionate appointment was made belatedly by 2 years and 1 month after attaining the age of majority by the Petitioner. The family must have received certain service benefits i.e. gratuity amount etc.. These facts are not disclosed in this Writ Petition. It is also not disclosed as to whether anybody from the family has any employment or other source of income? It is the fact that the application for compassionate appointment was submitted after around 18 years from the death of the father of the Petitioner. The application was tendered belatedly by 2 years and 1 month, which is not justifiable in view of the law laid down in ***Fertilizers and Chemicals Travancore Ltd and Ors. v. Anushree KB (2022) SCC Online SC 1331***. We cannot interfere in such a matter by invoking our writ jurisdiction. Considering the delay caused for filing the application and the principle that delay defeats equity, the Petitioner is certainly not entitled for appointment on compassionate ground.

10. The Hon'ble Supreme Court, while deciding the case of compassionate appointment i.e. ***Fertilizers and Chemicals Travancore Ltd and Ors. (supra)*** has crystallized the law that the compassionate appointment is neither an absolute right nor a source of employment. It is a facility available to the bereaved family only to render immediate financial succour. If the family is financially well placed, compassionate appointment is not to be granted. The arguments advanced by the learned advocate for the Petitioner is therefore, not accepted that the Petitioner's case can be considered sympathetically. The Writ Petition deserves to be dismissed.

11. In view of the above, this Writ Petition is dismissed.

12. Rule is discharged.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE , J.)

rlj/