

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2150 OF 2022

Akshay s/o Arvind Uppe
Age 25 years, Occ. Education
R/o. Guntoor, Tq. Kandhar
District Nanded

...Petitioner

versus

1. The State of Maharashtra
Through its Principal Secretary
School Education Department
Mantralaya, Mumbai-32.

2. The Education Officer (Secondary),
Zilla Parishad, Nanded
District Nanded

3. The Zilla Parishad, Nanded

...Respondents

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Mr. H.P. Randhir h/f Mr. A.S. Shivpuje, advocate for the petitioner
Mr. S.G. Karlekar, A.G.P. for respondent Nos. 1 and 2
Mr. S.B. Pulkundwar, advocate for respondent No.3
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**CORAM : RAVINDRA V. GHUGE AND
SANJAY A. DESHMUKH, JJ.**

DATED : 4th JANUARY, 2023.

ORAL JUDGMENT (PER RAVINDRA V. GHUGE,J.) :-

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

2. The petitioner has put forth prayer clauses B, C and D as under:-

“B. This Hon’ble Court by way of appropriate writ, order or

directions in the like nature, be pleased to quash and set aside the communication letter bearing Outward Number ZP/Sapravi/Aastha-2A/2021 dated 10.02.2021 issued by the Chief Executive Officer, Zillah Parishad, Nanded.

- C. This Hon'ble Court by way of appropriate writ, order or directions in the like nature, be pleased to direct the respondent nos.3 and 4 to consider the claim of the petitioner for appointment on compassionate ground as per representation dated 23.11.2020 and 1.1.2021, and further be pleased to direct the respondent No.3 to issue appointment order in favour of the petitioner namely Akshay Arvind Uppe on compassionate ground in class 3 or 4 category.
- D. Pending hearing and final disposal of this writ petition, this Hon'ble Court be pleased to direct the respondent No.3 to issue provisional appointment order in favour of the petitioner namely Akshay Arvind Uppe on compassionate ground."

3. The petitioner's father, Arvind Uppe was working as an Assistant Teacher in the Primary school run by Zilla Parishad, Nanded, at Pangra, Tq. Kandhar. He died while in service on 21.6.2002. The petitioner was born on 14.8.1996. He was around 6 years of age when his father passed away. He completed 18 years of age on 14.8.2014. After 6 years, he moved an application for seeking compassionate appointment, on 23.11.2020. He submitted a reminder on 1.1.2021.

4. The impugned order dated 10.2.2021, by which the request application of the petitioner has been rejected by the Zilla Parishad,

indicates that the petitioner had to move an application for compassionate appointment within one year. The Zilla Parishad even considered that the petitioner had become 18 years of age on 13.08.2014. He was expected to move an application in the light of the Government Resolution dated 23.8.1996 and 20.5.2015, within one year, on or before 13.8.2015. His application was tendered after the delay of 5 years and 3 months.

5. We have considered the following judgments delivered by the Hon'ble Supreme court on compassionate appointments :-

- i) Fertilizers and Chemicals Travancore Ltd and Ors. v. Anushree KB (2022) SCC Online SC 1331,
- ii) Director of Treasuries in Karnataka vs. v. Somyashree (2021) SCC Online SC 704,
- iii) Mumtaz Yunis Mulani v. State of Maharashtra (2008) 11 SCC 384,
- iv) Punjab State Power Corporation Limited and Ors. vs. Nirval Singh (2019) 6 SCC 774,
- v) State of Himachal Pradesh and Anr. vs Shashi Kumar (2019) 3 SCC 653.

6. As on date, it is 20 years and 7 months from the death of the petitioner's father. The application for compassionate appointment

was made belatedly by 5 years and 3 months. The family must have received certain service benefits and gratuity amount. These aspects have not been disclosed in the petition. It is also not disclosed as to whether the petitioner has any siblings or whether any sister or elder brother has any employment? Nevertheless, considering the application for compassionate appointment, after around 20 years from the death of the father, on an application that is tendered belatedly by 5 years and 3 months, is an impossible case. We cannot show any indulgence in such a matter by invoking our writ jurisdiction.

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

8. Rule is discharged.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE , J.)

rlj/