

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

901 WRIT PETITION NO.10292 OF 2022

**ANIKET SUNIL SONAWANE
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY
AND OTHERS**

...

Mr. K. D. Pote h/for Mr. A. G. Ambetkar, Advocate for the Petitioner
Mr. S. G. Karlekar, AGP for Respondents State
Mr. Amol Sawant, Advocate for Respondents 3 & 4
Mr. Shaikh Ashraf Patel h/for Mr. A. P. Avhad, Advocate for Respondent
No.5

CORAM : RAVINDRA V. GHUGE &
Y. G. KHOBRAGADE, JJ.

DATE : 29th August, 2023

ORDER:

1. On 31st March, 2023, we had passed the following order:

"1. This is a case of compassionate appointment. The father of the Petitioner passed away on 22.12.2020. The Petitioner claims to have filed an Application on 22.02.2021 with the Education Officer. The elder brother of the Petitioner viz. Amit Sunil Sonawane, has now moved respondent Nos. 3 and 4 institution, claiming compassionate appointment. The learned advocate for the management informs us that these two brothers are bitterly fighting and the management is unable to take a decision as to who should be granted the compassionate appointment.

2. Leave to add Amit Sunil Sonawane, as respondent No.5. Addition be carried out forthwith. Office to issue notice to the

added Respondent, returnable on 27.04.2023. Humdast granted on request.

3. This matter be listed in the 'urgent' category."

2. The added Respondent No.5 is the biological brother of the Petitioner. He has filed an affidavit in reply contending that the Petitioner had filed an Application on 22.02.2021 seeking compassionate appointment. He submits in Paragraph No. 7 that he is employed, he is married and is presently living happily at Shirur. In paragraph No.9, he submits that he has no objection, if the Management provides compassionate appointment to the Petitioner. The said statement is recorded.

3. The learned Advocate for the Management submits that though the Petitioner may have applied well in time, the Application is given in a simple form and is just in the nature of a letter addressed to the Education Officer and subsequently on 06.08.2022, he tendered an Application to the Management. He clarifies that the GR dated 31.12.2002 issued by the School Education Department, State of Maharashtra, provides for Annexure-B, which is the Form in which the Petitioner will have to tender an Application.

4. The GR dated 31.12.2002 provides in Clauses 5, 6, 7 and Clause 6B below Annexure- A, as under:

"५) कर्मचारी मयत वा अकाली सेवानिवृत्त झाल्यावर तीन महिन्यांच्या आत किंवा कुटुंब निवृत्तीवेतनाचे कागदपत्र सादर करताना संबंधित अधिकाऱ्याने आवश्यक माहिती (परिशिष्ट क) नातेवाईकांना उपलब्ध करून द्यावी व विहित प्रपत्रातील उमेदवाराचा अर्ज पंधरा दिवसांच्या आत संबंधित शिक्षणाधिकाऱ्यांकडे सादर करावा.

६) प्राथमिक, माध्यमिक, उच्च माध्यमिक व अध्यापक विद्यालयांच्या बाबतीत सर्व शिक्षणाधिकारी / शिक्षण निरीक्षकांनी सोबत जोडलेल्या परिशिष्ट 'ड' मधील माहिती विभागीय शिक्षण उपसंचालकांमार्फत शिक्षण संचालकांकडे पाठवावी.

७) शाळा व अध्यापक विद्यालयांतील रु. ५,५००-९,००० या वेतनश्रेणी पर्यंतच्या सर्व पदांना अनुकंपा तत्वावर नियुक्ती देता येईल. तसेच जी पदे भरण्यास शासनाने मंजूरी दिलेली आहे अशाच पदावरील नियुक्ती देण्यासाठी हे आदेश लागू राहातील.

परिशिष्ट "अ "

६. अ)

ब) शिक्षण निरीक्षक / शिक्षणाधिकारी (प्राथमिक / माध्यमिक) यांनी प्राप्त झालेल्या अर्जाची तपासणी करून जेष्ठतेनुसार नियुक्तीस पात्र अर्जदारास, त्याच्या अर्हतेनुसार संबंधित शाळेत पद उपलब्ध असल्यास त्याच शाळेत वा त्याच संस्थेच्या इतर शाळेत नियुक्तीसाठी विचार करावा. मात्र त्याच शाळेत वा

त्याच संस्थेच्या इतर शाळेत पद उपलब्ध नसल्यास त्याच जिल्ह्यातील इतर संस्थेच्या शाळेत सेवाप्रवेश नियमानुसार व इतर तरतूदीनुसार नियुक्तीसाठी विचार करण्यात यावा. शिक्षणाधिकारी (प्राथमिक / माध्यमिक) / शिक्षण निरीक्षक यांच्याकडून अनुकंपा तत्वावर नियुक्तीसाठी उपलब्ध असलेल्या पदावर उमेदवारांचे वाटप केल्यानंतर सात दिवसांचे आत नियुक्ती करण्याची जबाबदारी संबंधित संस्थेची राहिल. तसे केल्याचे संस्थेने शिक्षणाधिकारी (प्राथमिक / माध्यमिक)/ शिक्षण निरीक्षक यांना विनाविलंब कळविणे आवश्यक राहिल.

This indicates that an Application to be filed by a candidate can be addressed to the Education Officer.

5. In view of the above, **this Petition is disposed off**, with the following directions :-

- a] We have recorded no objection of Respondent No.5.
- b] The Petitioner would tender an Application in the form appended to Annexure B.
- c] In view of the GR dated 31.01.2002, the Application of the Petitioner is deemed to have been dated 22.02.2021. The said Application will be considered to have been lodged within time. The Management would deal with the said Application as per the policies of the department.

d] In the light of the fact that the father of the Petitioner has passed away on 22.12.2020, we expect an early decision on the Application for compassionate appointment, preferably within three months, taking into consideration the recent view of the Hon'ble Supreme Court.

e] In view of the interim order, the case of the Petitioner would be considered as against one post of the Junior Clerk which is available.

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)

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