

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

WRIT PETITION NO.13051 OF 2023

**RAHUL GANPAT VEER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Mr. M. S. Bhosale, Advocate for Petitioner
Mr. P. S. Patil, AGP for Respondent No.1 – State
Mr. P. D. Suryawanshi, Advocate for Respondent Nos. 2 and 3

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

DATE : 20.10.2023.

PER COURT :-

1. This is a Petition filed by a son who is 25 years of age today, seeking compassionate appointment. His father passed away on 31.10.2006, 17 years ago. The mother moved an application within one year for compassionate appointment. She was called upon to submit certain documents. With the passage of time, she turned 45. However, prior to her name being deleted, she moved an application on 20.11.2013 that her son who will be the 18 years of age in 2016, be considered for compassionate

appointment. This application was filed on 20.11.2013, which is 3 years prior to the Petitioner becoming an adult. The date of birth of the Petitioner is 28.08.1998.

2. In ***Ahmednagar Mahanagar Palika Vs. Ahmednagar Mahanagar Palika Kamgar Union (2002) 10 SCC 172***, the judgment of this Court granting compassionate employment on the basis of an award delivered in Reference I.T. No.51 of 1979, was set aside by the Hon'ble Supreme Court concluding in paragraph No.16 and 17 as under:-

“16. Even otherwise, such an appointment to the heirs of the employees on their retirement and/or superannuation shall be contrary to the object and purpose of appointment on compassionate grounds and is hit by Article 14 of the Constitution of India. As observed and held by this Court in a catena of decisions, compassionate appointment shall always be treated as an exception to the normal method of recruitment. The appointment on compassionate grounds is provided upon the death of an employee in harness without any kind of security whatsoever. The appointment on compassionate grounds is not automatic and shall be subject to the strict scrutiny of various parameters including the financial position of the family, the economic dependence of the family upon the deceased employee and the avocation of the other members of the family. No one can claim to have a vested right for appointment on compassionate grounds. Therefore, appointment on compassionate grounds cannot be extended to the heirs of the employees on their superannuation and/or retirement. If such an appointment is permitted, in that case,

outsiders shall never get an appointment and only the heirs of the employees on their superannuation and/or retirement shall get an appointment and those who are the outsiders shall never get an opportunity to get an appointment though they may be more meritorious and/or well educated and/or more qualified. Therefore, the submission on behalf of the respondent that the appointment is not on compassionate grounds but the same be called as varas hakka cannot be accepted. Even if the same be called as varas hakka the same is not supported by any scheme and even the same also can be said to be violative of Article 14 as well as Article 15 of the Constitution of India.

17. In view of the above and for the reasons stated above, both the judgment and award passed by the Industrial Court as well as the High Court in directing the Mahanagar Palika/Municipal Corporation to give appointment to the heirs of the employees on their superannuation and/or retirement is unsustainable and the same deserves to be quashed and set aside.”

3. In the ***State of West Bengal Vs. Debabrata Tiwari and Others*** - decided on 03.03.2023 - ***MANU/SC/0200/2023***, the Hon'ble Supreme Court framed certain principles in paragraphs 7.2 (ii), (iii), (iv) and (v), which read as under:-

“7.2. (ii) Appointment on compassionate grounds is not a source of recruitment. The reason for making such a benevolent scheme by the State or the public sector undertaking is to see that the dependents of the deceased are not deprived of the means of livelihood. It only enables the family of the deceased to get over the sudden financial crisis.

(iii) Compassionate appointment is not a vested right which can be exercised at any time in future. Compassionate

employment cannot be claimed or offered after a lapse of time and after the crisis is over.

iv. That compassionate appointment should be provided immediately to redeem the family in distress. It is improper to keep such a case pending for years.

v. In determining as to whether the family is in financial crisis, all relevant aspects must be borne in mind including the income of the family, its liabilities, the terminal benefits if any, received by the family, the age, dependency and marital status of its members, together with the income from any other source.”

4. We also find that the Petitioner has not ~~diverged~~ divulged in the Petition as to what were the service monetary benefits received by the widow after the demise of the bread earner and what is the monthly pension that is being received by the family, since the deceased was an Assistant Teacher, who had died while in service.

5. In view of the above, since a period of 17 years has lapsed, the principles set out by the Hon'ble Supreme Court in ***Debabrata Tiwari*** (supra), would not permit us to entertain this Petition for granting compassionate appointment.

6. In the event, the Petitioner desires to sue the Zilla Parishad for damages for delaying the claim of his mother, he would be at liberty to do so.

7. With the above observations, **the Writ Petition is disposed off.**

[Y. G. KHOBRADE, J.]

[RAVINDRA V. GHUGE, J.]

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