

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.13905 OF 2021

DHANSHRI NANDU PAITHANKAR
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
SECRETARY AND OTHERS

...

Advocate for the Petitioner : Shri Sandip R. Andhale
AGP for Respondent 1/State : Shri V.M. Kagne
Advocate for Respondents 2 and 3 : Ms.Manjushri V. Narwade

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

DATE :- 01st November, 2023

Per Court :-

1. On 09.10.2023, we had heard the learned Advocate
for the Petitioner at length and had passed the following order:-

- “1. *Let the Petitioner file an affidavit to support her oral statement that, she has separated from her husband, as to whether there are any legal proceedings between the two in relation to their marriage, and the son born out of the marriage is also residing with her. She would also state in the affidavit the quantum of retiral benefits that the widow (her mother) has received from the Zilla Parishad, as well as the monthly pension that she receives. The affidavit shall also state, as to when the Petitioner's brother got married, when did he secure employment and his present place of employment and residence. Let such affidavit be filed on or before 20/10/2023.*
2. *List this Writ Petition on 01/11/2023 in the*

'urgent orders' category.”

2. The father of the Petitioner passed away on 04.07.2018. The Petitioner's brother and mother are also the legal heirs. The brother of the Petitioner was married in 2015 and has joined the Bank of Baroda as a Clerk in 2013. He is living separately after his marriage on 09.02.2015. Therefore, it is obvious that the brother was never dependent on the father after 2013 when he acquired employment in the Bank of Baroda.

3. The Petitioner has tendered an additional affidavit in view of our earlier order, and has stated as under :-

(a) That, the Petitioner is married and a son is born out of the said marriage. The son is taking education in New Marathi School, Bhingar in Ahmednagar city.

(b) It is stated that the Petitioner got married much prior to the demise of her father. Apparently, after her marriage and upon residing with her husband, she was not dependent on her father.

(c) It is contended that after the father underwent angioplasty, the Petitioner came to the house of her parents.

(d) It is conceded that there is no dispute between the Petitioner and her husband.

(e) It is the widow, who was dependent on the deceased

husband when he passed away.

(f) After he passed away, the widow received an amount of Rs.10,54,700/- towards service benefits. She is receiving monthly pension of Rs.19,900/-. It is contended that after July, 2028, the monthly pension would be reduced to Rs.11,940/-.

4. It is thus, obvious that the widow is not living in penury, having received Rs.10,54,700/- and a monthly pension of Rs.19,900/-. The elder son is independent and residing away from the family. The Petitioner is also married. We do not deem it appropriate to exercise our Writ jurisdiction to direct the Respondents to consider this case for compassionate appointment.

5. The Honourable Supreme Court has held in (a) *Fertilizers and Chemicals Travancore Ltd. And others. Vs. Anushree KB*, (2022) SCC Online SC 1331, (b) *Director of Treasuries in Karnataka vs. Somyashree*, (2021) SCC Online SC 704, (c) *State of Uttar Pradesh and others vs. Premlata*, (2022) 1 SCC 30 and (d) *Ahmednagar Mahanagar Palika vs. Ahmednagar Mahanagar Palika Kamgar Union*, 2022 (III) CLR 859, that the compassionate appointment is neither an executable right for employment, nor a source of employment. If the family is living

in penury and there are several dependents on the sole bread earner, compassionate appointment could be granted in order to tide away the sudden loss of the bread earner for the family.

6. In view of the above, the **Writ Petition is dismissed.**

7. After the order was dictated in open Court and the petition was dismissed, Shri Andhale, the learned Advocate for the Petitioner, started arguing with the Court and insisted that he should be heard further. He already had repeated his arguments today.

8. On the last date viz. 09.10.2023, we had put several queries to the learned Advocate for the Petitioner and had heard him for quite sometime. After we realized that some material pleadings were necessary to decide the petition, we directed the Petitioner to file an additional affidavit so that it would assist us to come to some conclusion. Today, after the additional affidavit was filed, we have perused the affidavit threadbare and after noting all the contentions set out therein, we have dictated the order. Even after this portion of the order was dictated, Shri Andhale continued to argue.