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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 5014 OF 2014

Sou. Surekha Rahul Koli, Nee Surekha ... Petitioners
Krushna Kodole & Anr.

vs.

The Divisional Agricultural Joint Director, ... Respondents
Kolhapur Division and Ors.

Mr. Manoj Patil for the Petitioners.

Mr. R. P. Kadam, AGP for Respondent nos. 1, 2 and 6 – State.

Mr Ajit R. Pitale for Respondent nos. 3 and 4.

**CORAM : S.V. GANGAPURWALA, ACJ. &
SANDEEP V. MARNE, J.**

DATED : 3 FEBRUARY, 2023

P.C. :-

1. The petitioner no. 1 had filed application for appointment on compassionate ground. The father of the petitioners expired on 6 May 2002 in harness. The petitioner no. 1 on 16 September 2002 applied for appointment on compassionate ground. On or about 5 August 2011 the employer issued letter to petitioner no. 1 to remain present so that further steps for appointment can be undertaken. The name of the petitioner no. 1 was recommended for appointment on compassionate ground to Class III vacant post.

2. The petitioner no. 1 it appears remained present on 16 August 2011, however, on 18 August 2011 the petitioner no. 1 wrote a letter pursuant to information received from respondent no. 1 stating that since she is married she is not entitled for claim on compassionate ground and she shall not be treated as heir of her father and she is unable to attend the office of respondent no. 1. On or about 24 August 2011 the respondent no.1 issued letter to the petitioner no. 1 stating that since she is already married she cannot be appointed on compassionate ground. Thereafter the present petition is filed.

3. In the year 2019, petitioner no. 2 was added as party wherein employment was also claimed for him. Learned counsel Mr. Patil for the petitioners submits that though petitioner no. 1 was married still she was entitled for appointment on compassionate ground as the married daughter is also entitled for appointment on compassionate ground. It is further submitted that in case petitioner no. 1 is not considered for appointment on compassionate ground, the case of petitioner no. 2 ought to have been considered. But the case of petitioner no. 2 is also not considered. According to the learned counsel for the petitioners the substitution is permissible.

4. To substantiate his contention the learned counsel for the petitioner relies upon the judgment of the division bench of this court in *Aparna vs. Asst. Superintendent Engineer*¹ to contend that even married daughter is entitled for appointment on compassionate ground. Relying upon the judgment of this court in *Dnyaneshwar Ramkishan Musane vs. State of Maharashtra and Ors.*², the learned counsel submits that the names of the person in the waiting list can be substituted. The GR directing that the name cannot be substituted has been set aside by this court. Reliance is also placed on the order of the Division bench of this court dated 27 June 2022 in Writ Petition No. 5179 of 2021.

5. According to the learned counsel for the petitioners , the petitioners are in need of employment and have no other source of livelihood.

6. We have heard learned counsel for the respondents also. The appointment on compassionate ground is not source of recruitment nor is a right. The purpose and object of appointment on compassionate ground is to provide immediate succor to the family of the deceased who has died in harness.

1 (2011) (5) Mh.L.J. 290

2 2020 DGLS (Bom) 125

The father of the petitioners expired on 6 May 2002. 22 years have lapsed. In the year 2011, the employer offered to employ petitioner no.1. Petitioner no. 1 got married in year 2009. Subsequently petitioner no. 2 attained majority in the year 2008. Petitioner no. 2 never filed application for appointment on compassionate ground even till date. In case the petitioner no. 1 was not eligible for appointment, petitioner no. 2 would have filed application immediately in the year 2011 as petitioner no. 2 had attained majority in the year 2008.

7. The long delay would be a major factor in the case of compassionate ground. In view of the fact that more than 22 years have lapsed and that the petitioner no. 2 never made an application seeking employment on compassionate ground it would be too late for grant of appointment on compassionate ground.

8. Writ Petition as such is disposed of. No costs.

(SANDEEP V. MARNE, J.)

(ACTING CHIEF JUSTICE)