

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9640 OF 2022

Vijay Sampat Sakpal

....Petitioner

V/S

State of Maharashtra & Anr.

....Respondents

...

Dr. Vipin B. Kumar a/w Ms. Sunita R. Vishwakarma and Mr. Akshay Longave i/b Mr. Saroj Shinde for the Petitioner.

Mrs. R.A. Salunkhe, AGP for Respondent No.1-State.

Mr. Santosh Parad a/w Mr. R.Y. Sirsikar for Respondent No.2-Corporation.

...

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

DATE : 2nd MAY 2023.

P.C.:

1 The father of the Petitioner retired on superannuation on 1st July 2015.

2 The Petitioner applied for appointment on compassionate ground in his place. The Application of the Petitioner is rejected on the ground that the Petitioner is convicted for an offence under the Narcotic Drugs and Psychotropic Substances Act, 1985 (**NDPS Act**).

3 The learned Advocate for the Petitioner submits that the Petitioner had filed an Application seeking appointment on compassionate ground

in the year 2015. The conviction of the Petitioner was in the year 2017. The Police Department also took more than five years to give report and after seven years of the Petitioner making the application, the Respondent rejected the Application of the Petitioner.

4 The learned Advocate for the Petitioner submits that considering the backgrounds from which Petitioner comes i.e. from the social and culturally backward background, the Respondent could have considered the case of the Petitioner. It was just that the friends of the Petitioner were smoking and the Petitioner joined them. A stray act ought not to be relevant for denying the Petitioner public employment. The Petitioner cannot be said to be a criminal inasmuch as the imposition of minor fine would not disentitle him from claiming public employment. The Government Resolution providing employment to the legal heir in place of his father after his retirement is a social and welfare decision. The purpose of the said Government Resolution has to be considered. The learned Advocate relies upon the judgment of Delhi High Court in a case of **Commissioner of Police vs. Maheshkumar and others** dated 29th April 2013. Relying upon the said judgment it is submitted that life is too precious to be staked over petty incidents and the cruel result of

conviction for petty offences being the end of the career, the future in the present, of young and inexperienced persons cannot blast their life and their dreams.

5 We have considered the submissions.

6 The Petitioner is not seeking employment through competition but is seeking employment on compassionate ground.

7 Employment on compassionate ground is not a right. However, is governed by the executive instructions pursuant to which the benefit of the executive instructions are claimed. The Government Resolution dated 26th October 2014 bars persons from employment on compassionate ground if they are convicted or trial is pending in respect of the offences enumerated in the Government Resolution.

8 Conviction under the NDPS Act is one such an offence where the person is disentitled from claiming appointment on compassionate ground. The said Government Resolution is still in force. The same is not assailed.

9 It would appear that two criminal cases were lodged against the Petitioner. C.R No.32 of 2013 was lodged under section 124 and the

Petitioner was acquitted in the said case. In the second case in C.R. No.27 of 2015, he was convicted for an offence punishable under 8(c) read with section 27 of the NDPS Act. It is noted that the Petitioner faced a solitary criminal case.

10 Be that as it may the Petitioner is convicted for an offence under the provisions of NDPS Act. Though only the fine of Rs.1,000/- imposed upon the Petitioner, the Petitioner stands convicted for the offence punishable under the NDPS Act. The Government Resolution does not permit employment on compassionate ground to those persons who are convicted for an offence under NDPS Act. The said Government Resolution is not subject matter of challenge in the present Writ Petition.

11 In light of the aforesaid observations, no case for interference is made out, Writ Petition is disposed of. No costs.

(SANDEEP V. MARNE, J.)

(ACTING CHIEF JUSTICE)

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KATKAM
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