

jvs

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

WRIT PETITION NO. 7639 OF 2021

Deepak Vardhaman Kale & Ors. } Petitioners
Versus
The State of Maharashtra & Ors. } Respondents

Ms. Medha Jondhale with Ms. Rajnandini Jondhale, Mr. Anand Jondhale, Mr. Harshwardhan Shinde, Mr. Upendra Pandey, Mr. Raj Jondhale, Mr. Vijay Jondhale & S. L. Jondhale i/b. Jondhale & Co. for the petitioners.

Ms. Nisha Mehra, AGP for respondent no. 1.

Adv. N. P. Boraste i/b. Adv. G. R. Agrawal for respondents 2 to 4.

Mr. Mahesh H. Chandanshiv for respondent no. 5.

CORAM: S. V. GANGAPURWALA, Act.CJ.&
SANDEEP V. MARNE, J.

DATE: MARCH 29, 2023

P.C.:

1. The learned advocate for the petitioners submits that an undertaking was given by respondent no. 5, when she was employed on compassionate ground, that she would maintain petitioner nos. 1 and 2. Respondent no. 5 now is not maintaining petitioners 1 and 2 and deviating from the undertaking given by her. The petitioner no. 1 is paralyzed. He is required to be maintained by respondent no. 5. Respondent no. 5 has got employment with respondents 2 to 4 on the basis of the undertaking given by her that she would maintain the petitioners.

2. We have considered the submissions.

3. Respondent no. 5 is employed on compassionate ground on account of the death of her father while in service with respondents 2 to 4. In fact, it was not necessary for respondents 2 to 4 to take undertaking from respondent no. 5 that she would maintain the petitioners 1 and 2. Petitioners 1 and 2 would not come within the definition of dependent family members. At the time when respondent no. 5 was employed, she was unmarried. It appears that respondent no. 5 is now married. The undertaking ought not to have been insisted upon at the time of employment from respondent no. 5 that she would maintain petitioners 1 and 2. The petitioner no. 3 is the son of respondents 1 and 2, who is major and working. It is his duty to maintain petitioners 1 and 2.

4. An affidavit is filed by respondents 2 to 4. The affidavit states that the petitioners are not covered by the definition of dependent family member of late Sanjay Kale, the father of respondent no. 5 and that she was appointed on compassionate ground as there was no bar under the rules for her appointment and she was within the category of dependent family member.

5. In light of the above, no further orders can be passed. The writ petition is disposed of. No costs.

SALUNKE
J V

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by SALUNKE J V
Date: 2023.03.30
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(SANDEEP V. MARNE, J.)

(ACTING CHIEF JUSTICE)