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

WRIT PETITION NO. 5403 OF 2019

Mr. Milind Dattatray Kulkarni

.. Petitioner

Vs.

Union of India & Ors.

.. Respondents

Mr. Kishor Patil i/by Mr. Nikhil Pujari for petitioner.
Mr. Yogeshwar Bhate for respondents.

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

DATE: FEBRUARY 1, 2023

P.C.:

- 1.** The application of the petitioner, seeking appointment on compassionate ground is rejected.
- 2.** The learned counsel for the petitioner submits that the father of the petitioner was in employment of respondent no.5 and was absorbed by respondent no.3. The respondent no.3 came into existence in the year 2006. The father of the petitioner died in harness on 21st October, 2010. The mother of the petitioner immediately, i.e., on 17th December, 2010 filed an application seeking appointment on compassionate ground for the petitioner. The learned counsel submits that the claim of the petitioner is negated on the ground that on the date the father of the petitioner died, no scheme existed for appointment on compassionate ground.
- 3.** The learned counsel for the petitioner submits that the said aspect is not correct. The Memorandum of Settlement was arrived at between the Union and respondent no.3 in the year 2008. As per

Clause 29 of the said Memorandum of Settlement, the cases of compassionate appointment are to be decided in accordance with and subject to the existing rules applicable to public sector undertakings. The learned counsel submits that the Office Memorandum dated 9th October, 1998 issued by the Government of India, Ministry of Personnel, Public Grievances and Pension (Department of Personnel and Training) provides for benefit of compassionate appointment. This aspect has not been considered by the respondents. The learned counsel further submits that the petitioner is in need of compassionate appointment. The petitioner does not have any other source of livelihood.

4. We have also heard the learned counsel for all the respondents.

5. The learned counsel for the respondents supports the impugned communication.

6. The law/executive instructions holding the field on the date of the death/application for compassionate appointment are to be considered. The claim of the petitioner is negated on the ground that the scheme for compassionate appointment was introduced by the respondents under notification dated 4th December, 2013. Earlier to that, the scheme for compassionate appointment was not in existence with the respondents. The reliance placed by the learned counsel for the petitioner on the Office Memorandum dated 9th October, 1998 issued by the Government of India, Ministry of Personnel, Public Grievances and Pension (Department of Personnel and Training) may not enure to the benefit of the petitioner in as much as the same would apply to the Central Government employees. The settlement between the respondent no.3 and the Union on or about 15th September, 2008 was that the Rules/instructions applicable to public sector undertakings shall be made applicable. No such rules of public sector undertakings are placed on record to arrive at a conclusion that a scheme for

compassionate appointment was applicable to them. Moreover, 12 years have already lapsed. As per the respondents, the petitioner is being paid Rs.5 lakh (Rupees Five Lakh only) as compensation in lieu of compassionate appointment. It is for the petitioner to accept the said payment.

7. The writ petition is accordingly disposed of. No costs.

(SANDEEP V. MARNE, J.)

(ACTING CHIEF JUSTICE)

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