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

WRIT PETITION NO.13889 OF 2017

Amanulla S. Mahaldar

..Petitioner

VS.

The State of Maharashtra
through Secretary & ors.

..Respondents

Adv. N. Y. Chavan for the petitioner.

Mr. M. M. Pabale, AGP for the respondent nos.1 to 4.

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

DATE: MARCH 14, 2023

P.C.:-

- 1.** The petitioner seeks appointment on compassionate ground.
- 2.** The father of the petitioner died in the year 1997. The mother of the petitioner applied for the appointment on compassionate ground. The name of the mother was placed in the list of persons to be appointed on compassionate ground. The name of the mother of the petitioner figured at Serial No.3 in the wait list. In 2007, two posts were available to appoint on compassionate ground. The persons at serial nos. 1 and 2 were appointed. The mother of the petitioner

attained the age of 40 years, her name was deleted from the wait list. The petitioner became major in the year 2011, and applied for appointment on the compassionate ground. As the application was not decided, the applicant approached the Tribunal. The respondent rejected the application of the petitioner.

3. The petitioner filed the original application before the Tribunal against the rejection of the application. The Tribunal dismissed the original application. Aggrieved thereby the present petition.

4. Learned counsel for the petitioner submits that his mother was not given appointment on compassionate ground. The petitioner became major in 2011. None from his family is given appointment on compassionate ground. Immediately upon becoming major, the petitioner filed the application seeking appointment on compassionate ground . The respondent rejected the same only on the ground that there is no substantive provision for substitution. Learned counsel for the petitioner submits that there is no impediment to consider the case of the petitioner. For no fault of the petitioner, he was denied the

appointment.

5. Learned counsel for the petitioner relies upon the decision of the Division Bench dated 9/12/2009 in Writ Petition No.7793/2009. So also, he relies upon the judgment of the Apex Court in the case of **Supriya Suresh Patil @ Sow Supriya Pratik Kadam vs. State of Maharashtra and others** reported in **2018 (4) SLR 771** and the judgment of the Division Bench in Writ Petition No.13932/2017 dated 18/7/2018.

6. We have heard learned AGP.

7. In Writ Petition No.7793/2009, this Court under order dated 9/12/2009 directed the respondents to consider the case of the petitioner therein and pass appropriate order. In case of **Supriya Suresh Patil** (supra), the Apex Court had passed order under Article 142 of the Constitution of India and further observed that the said judgment shall not be treated as a precedent. In case of Writ Petition No.13932/2017, the Division Bench of this Court in order dated 18/7/2018 directed to include the name of the respondent no.2 in the waiting list for compassionate appointment in Group-D category at the appropriate

position.

8. The Apex Court in its recent judgment in case of **N.C. Santhosh vs. State of Karnataka** reported in **(2020) 7 SCC 617** has held that the policy as on the date of accrual of the right would apply. When the right accrued to the petitioner, there was no provision to substitute the name of the mother after she had crossed age limit. The Tribunal has considered the said aspect. Moreover, after 25 years, the purpose of compassionate appointment may not be served. The purpose of compassionate appointment is to provide immediate success to the family dying in harness.

9. In the light of the above observations, the writ petition is disposed of.

10. No costs.

(SANDEEP V. MARNE, J.)

(ACTING CHIEF JUSTICE)