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

WRIT PETITION NO. 15990 OF 2022

Karan Nandkumar Bhosale & Anr. .. Petitioners

Vs.

Ministry of Home Affairs & Anr. .. Respondents

Ms. Pooja Phagnekar for petitioners.

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

DATE: JANUARY 7, 2023

P.C.:

1. Heard the learned advocate for the petitioners.
2. The petitioners had filed original application before the Maharashtra Administrative Tribunal (hereafter "the Tribunal", for short) seeking appointment on compassionate ground so also pension.
3. The learned advocate for the petitioners submits that the father of the petitioner no.1 Nandkumar was in employment for respondents. In 2006, he was illegally terminated on the ground that criminal case was filed against him. He died in the year 2009. In the criminal case filed against Nandkumar, the other co-accused were acquitted in the year 2014. However, as Nandkumar had died, the criminal proceeding could not be proceeded further against him. According to the learned advocate, the petitioners would be entitled for appointment on compassionate ground and also

pension. The other co-accused along with Nandkumar were already acquitted in the year 2014. The learned advocate submits that as per the relevant scheme, the petitioners will be entitled for appointment on compassionate ground. The family pension also deserves to be paid to petitioner no.2.

4. We have considered the submissions canvassed by the learned advocate for the petitioners.

5. It is undisputed that Nandkumar was terminated from service on 8th May, 2006 in view of the criminal case filed against him. Eventually, he died in the year 2009. It appears that the petitioners applied for appointment on compassionate ground on 14th January, 2015.

6. The scheme for appointment on compassionate ground would not be applicable to the legal heirs/dependents of a terminated employee. Moreover, more than 16 years have lapsed since deceased Nandkumar was terminated from service. He died in the year 2009. The very purpose of compassionate appointment would not survive. The object of appointment on compassionate ground is to provide immediate succor to the family of the deceased who dies in harness.

7. Upon termination of service, the petitioner no.2 would certainly not be entitled for family pension. In that view of the matter, the Tribunal has not committed any error while rejecting the original application.

8. It would have been another aspect had the order of termination of Nandkumar been set aside on the ground that no departmental enquiry was conducted and the termination being based only upon the lodging of a criminal case and that all the other co-accused had acquitted and no trial against the

deceased Nandkumar proceeded further. The learned advocate for the petitioners seeks liberty to challenge the order of termination of deceased Nandkumar.

9. It is for the petitioners to take appropriate steps qua termination of deceased Nandkumar as may be permissible under law and before the appropriate forum.

10. In case some order favourable to the petitioners is passed in challenge to the termination order, then the present proceeding would not be an impediment.

11. Writ petition is disposed of. No costs.

(SANDEEP V. MARNE, J.) (ACTING CHIEF JUSTICE)