

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION 2874 OF 2022

Santosh haridas Meshram,
Aged about 46 years, Occ. Nil,
r/o. Pathanpura Ward,
Near Kalaram Mandir, Chandrapur,
District Chandrapur

.....PETITIONER

..V E R S U S..

1. State of Maharashtra,
through its Secretary, Urban
Development Department,
Mantralaya, Mumbai 32

2. The Municipal Commissioner,
Chandrapur City, Chandrapur,
District Chandrapur

..RESPONDENTS

Mr. Bharat Chandrakapure, counsel for petitioner.
Mr. M.K.Pathan, AGP for respondent 1/State.
Mr. M.I. Dhattrak, counsel for respondents 2.

CORAM:- ROHIT B. DEO & M.W. CHANDWANI, JJ.
DATE : 03.07.2023

JUDGMENT (Per: Rohit B. Deo, J.)

Heard.

2. The petitioner is assailing the resolution-cum-order dated 11.11.2021 of respondent 2 Chandrapur Municipal Corporation, whereby the petitioner's claim to compassionate appointment is rejected.

3. The petitioner's mother Mrs. Sai Meshram was working with the Municipal Corporation, Chandrapur as labour. She died on 31.7.1999 in harness.

4. Petitioner preferred application dated 19.12.2003 seeking appointment on compassionate ground.

5. According to the petitioner, it was on 19.1.2011 that the petitioner was asked by respondent 2 to submit the form along with the relevant statement.

6. It is the case of the petitioner that he responded to the letter received on 19.1.2011 after six years and submitted the prescribed form on 8.6.2017. The next relevant averment is that the petitioner received letter dated 3.3.2021 that the process of filling in vacant post from the legal heirs of employee who expired prior to August 2005 is ongoing. Certain documents were called from the petitioner, which he furnished. Previous antecedents of the petitioner were verified from the police department. Caste validity certificate was also sought.

7. Petitioner states that the seniority list published on 13.9.2021 mentions the name of the petitioner at serial 23.

8. The petitioner states that during the period 2003 to March 2021, the respondent appointed on compassionate ground persons who are junior to the petitioner in the list.

9. Ultimately, the claim is rejected on the ground that the petitioner crossed the age of 45 years. It is common ground that the extant policy restricts the entitlement of legal heirs, who have not crossed the age of 45.

10. We have adjourned the hearing several times in order to enable the learned counsel for the petitioner to substantiate the submission that the persons junior to petitioner in the waiting list have been appointed on compassionate ground. Learned counsel Mr. Bharat Chandrakapur states that the petitioner has sought the relevant information under the Right to Information Act.

11. Be that as it may, considering the specific pleadings, respondent 2 ought to have disclosed in the affidavit in response whether any person junior to the petitioner is appointed.

12. However, the learned counsel Mr. M.I. Dhattrak states that no junior person is appointed prior to the petitioner completing the age of 45 years, which statement is taken on record.

13. Mr. Bharat Chandrakapur would argue that the petitioner cannot be faulted inasmuch as he did submit the application on 19.12.2013 and no decision was taken for 17 years.

14. In our considered view, the petitioner is in no position to blame respondent 2 for alleged delay. The petitioner himself slept over the matter, which is obvious from the fact that admittedly, he responded to the letter dated 19.1.2011 after more than 6 years. The learned counsel for respondent 2 Mr. M.I. Dhattrak rightly points out that the mother of the petitioner expired in 1999 and the petitioner has apparently pulled on for the 24 years.

15. The well entrenched position of law is that compassionate appointment is not a vested right. Compassionate appointment serves the salutary purpose of

ensuring that the family of the deceased employee does not face the prospect of penury. It is only in order to ensure that the immediate succour is provided to the family of the deceased that provision is made for compassionate appointment which is an exception to the constitutional philosophy enshrined in Articles 14 and 16 of the Constitution of India.

16. While we are not inclined to delve deeper in the jurisprudential aspect of the matter, in the facts of the present case, we are more than satisfied that the petitioner took no step whatsoever to enforce his right, if any, under the extant policy. There is absolutely nothing on record to suggest that from the date the petitioner submitted application complete in every respect, there is any person junior in the waiting list who is issued the compassionate appointment. In so far as the list which is placed on record is concerned, Mr. M.I. Dhattrak clarified that appointments on compassionate grounds which are mentioned in the said list have been made after the petitioner ceased to be eligible by

virtue of completing the age of 45 years.

17. We see no reason to interfere in writ jurisdiction.

18. The petition is dismissed.

belkhede (M.W. Chandwani, J.)

(Rohit B. Deo, J.)