

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

WRIT PETITION NO.2518/2023

Shri Pramod Prem Shrirame,
aged about 43 Yrs., Occ. Private,
R/o Quarter No.E/98, Sujata Nagar,
Binaki Layout, Vidarbha Housing
Board Colony, Dist. Nagpur.

... Petitioner

- Versus -

1. Principal / Secretary, Higher
Education, Mantralaya,
Mumbai-32.
2. Joint Director Higher Education
Nagpur Division, Nagpur.
3. The Collector, Collector's Officer,
Civil Lines, Nagpur.
4. Principal of Santaji College,
Wardha Road, Nagpur.
5. Chairman / Secretary of Santaji
Shikshan Vikas Sanstha,
Nagpur.

... Respondents

Ms. Shweta Wankhede (Chavhan), Counsel for the Petitioner.
Mr. Amit A. Madiwale, Assistant Government Pleader for
Respondent Nos.1 to 3.
Mr. B.G. Kulkarni, Counsel for Respondent Nos.4 and 5.

CORAM: A.S. CHANDURKAR & MRS. VRUSHALI V. JOSHI, JJ.
DATE : 24.7.2023

ORAL JUDGMENT (Per Mrs. Vrushali V. Joshi, J.)

Heard. **Rule.** Rule made returnable forthwith.

Heard finally by consent of learned counsel for the parties.

2. The petitioner is claiming the following reliefs:-

(i) respondents be directed to consider the representations of the petitioner as per the Government Resolution dated 21.9.2017 and

(ii) direct the respondent Nos.4 and 5 not to fill vacant post during the pendency of the present petition.

3. The petitioner is claiming compassionate appointment in respondent No.4 college. The sister of the petitioner was working as Junior Clerk in respondent No.4 college and she died due to Covid on 12.4.2021. The deceased is

having one daughter aged about four years and petitioner is taking care of her. Though the deceased was married, her husband is not taking care of her daughter and she is staying with the petitioner. As daughter of deceased is staying with petitioner, the petitioner being brother of the deceased, has claimed the employment on compassionate ground.

4. The petitioner is a married person having his own family and the deceased was also a married lady. The eligibility of the petitioner for appointment on compassionate ground depends upon this crucial fact. As per the provisions of the Government Resolution dated 21.9.2017 the eligibility has been specifically prescribed in clause (4) of the said Government Resolution. The preference wise categories are given as under:-

(a) husband/wife,

*(b) son/daughter (married and unmarried).
Lawfully adopted son or daughter (married or
unmarried) prior to the date of death,*

*(c) if the son of the deceased employee is not
alive or if he is not eligible then the daughter
in law of the deceased employee,*

(d) divorcee daughter or sister, deserted daughter or sister, widowed daughter or sister and

(e) only in case of unmarried Government servant, totally dependent brother or sister.

5. In case in hand the petitioner is the brother of the deceased but he is not entitled for compassionate appointment as he is not covered by clause (e). The brother can claim a right for compassionate appointment in an exceptional case as stipulated in sub-clause (e). The mandatory conditions have been stipulated in expressed terms namely the deceased Government servant was unmarried and the brother or sister claiming such a right was solely dependent upon the deceased employee. Both these conditions are not complied with in this case. The deceased who died in harness was a married employee and the petitioner who is claiming the appointment on compassionate ground is also married having independent family and is not solely dependent upon the deceased employee. In view of the above position, the

petitioner is not entitled for the reliefs claimed by him. The writ petition is, therefore, dismissed. No costs.

(MRS. VRUSHALI V. JOSHI, J.)

(A.S. CHANDURKAR, J.)

Tambaskar.

Signed By: NEELESH VILASRAO
TAMBASKAR

Private Secretary
Date: 27.07.2023 17:24