

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

Writ Petition No.6980 of 2022

Jamila Bi Sheikh Qayyum and anr. Vs. Executive Engineer National Highway, Division No.13, Amravati and ors.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri P.S. Girdekar, Advocate for the Petitioners

**CORAM : ANIL S. KILOR, J.
DATED : 03.01.2023.**

1. Heard.
2. In this petition, a challenge is raised to the judgment and order dated 23.04.2019 passed by Industrial Court, Akola, dismissing the complaint preferred by the petitioners for compassionate appointment.
3. The learned counsel for the petitioners submits that immediately after the death of the husband of the petitioner No.1 and father of the petitioner No.2, the application for appointment on compassionate ground was made within one year and the petitioners were waiting for response from the employer, with a hope that they would get employment. It is therefore, submitted that the petitioners are not at fault and therefore, there is no delay as held by the learned Industrial Court. It is therefore, submitted that the impugned order is erroneous.
4. I have perused the impugned order.

5. The learned Industrial Court, while rejecting the claim of the petitioners, has held thus:

“18. The complainant further relied on the law laid down by Hon’ble Supreme Court in the case of Haryana State Electricity Board -V/S- Naresh Tanwar And Another, reported in 1996 (72) FLR 819, wherein Hon’ble Supreme Court held that appointment on Compassionate Ground is exception to general rule of appointment. It is intended to provide immediate relief to family of deceased. It is not a vested right to be exercised in future at any time. It is further held that the right cannot be claimed when the crisis is over after lapse of time. In the case in hand also I find that the Complainant No.3 at the time of death of Original Employee on 10.02.2004 was Minor. The Complainant after the death of his Father in the year 2004 is seeking employment on Compassionate Ground after a period of 9 years, by filing this Complaint, in the year 2013. The Complainant has come forward with a case that before the death of his Father he was Minor and on attaining the age of majority he is seeking employment on Compassionate Ground. As such, in the case in hand I am of the view that the appointment on Compassionate Ground at belated stage after crisis over and after lapse of considerable period of 9 years, the case of the Complainant for appointment on Compassionate Ground cannot be entertained.”

6. After going through the findings recorded by the learned Industrial Court and in view of the settled law that the compassionate appointment is not a right. Further considering the period lapsed after the death of the deceased up till now, I do not find any perversity committed by the learned Industrial Court in rejecting the complainant of the petitioners. In the circumstances, the petition is **dismissed**.

[ANIL S. KILOR, J.]

Digitally signed by NIRANJAN
DOMAJI THAWRE
Signing Date: 05.01.2023
18:23