

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

WRIT PETITION NO.5560 of 2021

Rahul Ramnarayan Madankar and another

vs.

The New India Assurance Company Limited, Mumbai-400 001 thru. its Manager & others.

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

Court's or Judge's Order

Shri Atul J. Pathak, Advocate for petitioner.

Shri B. P. Bhatt, Advocate for respondents.

CORAM :- A.S.CHANDURKAR AND MRS. VRUSHALI V. JOSHI, JJ.

DATE :- 19th AUGUST, 2023

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Heard.

2. The petitioner no.2 was in employment with the respondent no.3-Regional Office of the New India Assurance Company Limited, Nagpur on the post of 'Assistant Clerk cum Cashier'. The petitioner no.2 made an application for seeking voluntary retirement on 22.07.2015. Alongwith the said application, the petitioner no.2 annexed the copy of the Medical Certificate signed by the Civil Surgeon, General Hospital, Gondia dated 21.07.2015 indicating his unfitness for further service. According to the petitioner no.2, he wanted his son to be considered for appointment on compassionate basis under Clause 1.1(b) of the Scheme for Compassionate Appointment in Public Sector General Insurance Companies (for short, the Scheme) which benefit was admissible if an employee retired on medical grounds before the age of 55. Hence such application for seeking voluntary retirement was moved on 22.07.2015 prior to attaining the age of 55 years.

3. The request for appointment of the petitioner no.1 on compassionate ground has been refused by the respondents on the ground that the petitioner no.2 retired on medical ground after attaining the age of 55 years.

4. We have heard the learned counsel for the parties and perused the documents on record. Clause 1.1 of the Scheme reads as under:

“1.1 : To a dependent family member of permanent employee of a Public Sector General Insurance Company (PSGIC) who-

(a) Dies while in service (including death by suicide).

OR

(b) Is retired on medical grounds due to incapacitation before reaching the age of 55 years.

(incapacitation is to be certified by a duly appointed Medical Board in a Government Medical College / Government District Head Quarters Hospitals / Panel of Doctors nominated by the Company for the purpose).”

5. It is not in dispute that alongwith application dated 22.07.2015 seeking voluntary retirement, the petitioner no.2 annexed Medical Certificate signed by the Civil Surgeon, General Hospital, Gondia dated 21.07.2015. This certificate does not satisfy the requirements as prescribed by Clause 1.1 of the Scheme. Under the said Clause a certificate ought to be issued by a duly appointed Medical Board. In the reply filed by the respondents, it has been specifically stated that the petitioner no.2 was called upon to submit all relevant documents in support of his application for voluntary retirement. It is only on 10.02.2016 that the petitioner no.2 could obtain a Medical Certificate from the Medical Board as prescribed by Clause 1.1 of the Scheme. However, in the meanwhile the petitioner no.2 had crossed the age of 55 years. The petitioner no.2 was thereafter relieved by accepting his voluntary retirement application on 31.05.2016.

6. In view of aforesaid, we do not find that the denial by the respondents to appoint the petitioner no.1 on compassionate basis is contrary to the Scheme in question. The petitioner no.2's application for seeking voluntary retirement having been accepted after the age of 55 years, no fault can be found with the denial of compassionate

appointment to the petitioner no.1.

7. The writ petition is therefore dismissed. No costs.

8. At this stage, it is submitted that the entire dues of the petitioner no.2 pursuant to acceptance of his request for voluntary retirement have not been paid. The respondents shall examine the aforesaid aspect and in case any dues are found to be outstanding, the same shall be paid to the petitioner no.2. Necessary steps in that regard be taken within a period of three months from today.

(MRS. VRUSHALI V. JOSHI, J.)

(A.S.CHANDURKAR, J.)

Andurkar.