

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

WRIT PETITION NO.5472 OF 2021

1. Ku. Vaishnavi D/o Mohan Deshmukh  
Aged about 20 yrs, Occ Student,
  2. Sujata Wd/o Mohan Deshmukh,  
Both R/o Uday Colony, Sai Nagar,  
Amravati Mob. No.7350653046
- ... Petitioners

-vs-

1. The Principal Secretary,  
Public Work Department,  
Opp. G.P.O. CBI Colony,  
Civil Lines, Nagpur
  2. The Executive Engineer,  
Public Work Department,  
Akola, Dist. Akola
  3. The Superintendent Engineer,  
Public Work Department,  
Akola, Dist. Akola
  4. The Collector,  
Dist. Akola
- ... Respondents

Shri Amit Ravikant Prasad, Advocate for petitioner.

Shri A. A. Madiwale, Assistant Government Pleader for respondents.

**CORAM : A. S. CHANDURKAR AND M. W. CHANDWANI, JJ.**

**DATE : March 09, 2023**

Oral Judgment : (Per : A. S. Chandurkar, J.)

Rule. Rule made returnable forthwith and heard the learned counsel for the parties.

The father of the petitioner No.1 and husband of petitioner

No.2 was employed with the respondent No.1-Public Works Department. He died in harness on 07/10/2007. His widow made an application seeking appointment on compassionate basis on 21/04/2008. This application came to be rejected on 18/07/2008 for the reason that the widow had crossed the age of forty years and hence her application could not be considered. At that point of time the petitioner No.1 was a minor. Shortly after attaining the age of majority she made an application on 13/11/2017 seeking appointment on compassionate basis. That application was under consideration of the Authorities but ultimately on 05/10/2020 the same was rejected on the ground that the application was made belatedly. Being aggrieved the said communication dated 05/10/2020 is challenged in this writ petition.

2. We have heard the learned counsel for the petitioners as well as the learned Assistant Government Pleader for the respondents. It is not in dispute that the initial application made by the widow was rejected on 18/07/2008 on the ground that she had crossed the age of forty years. The claim was not considered on merits but came to be filed as the widow had crossed the permissible age. The petitioner No.1 made an application on 13/11/2017 which is prior to her attaining the age of majority. She attained the age of majority on

16/12/2018. As per Government Resolution dated 21/09/2017 and especially Clause (10) thereof, a minor can make an application for seeking compassionate appointment within a period of one year of attaining the age of majority. In the present case such application has been made prior to attaining the age of majority. The same has however not been considered only on the ground that it has been made belatedly. The Authorities perhaps took into consideration the date of death which is 07/10/2007. As a result the claim of the daughter has not been considered on merits.

3. We find that the application seeking grant of compassionate appointment ought to be considered on its own merits especially when such application was made by the daughter shortly prior to attaining the age of majority. When the impugned order was passed, the daughter was major. In these facts therefore, we are inclined to direct the respondents to consider the petitioner's application dated 13/11/2017 on its own merits and in the light of Government Resolution dated 21/09/2017.

4. In view of aforesaid the impugned communication dated 05/10/2020 is set aside. The petitioner's application dated 13/11/2017 is restored for being considered in accordance with the

Government Resolution dated 21/09/2017. Such decision be taken within a period of six weeks of receiving copy of this judgment. The parties shall act in accordance with the decision taken.

With these directions the writ petition is partly allowed and disposed of. Rule accordingly. No costs.

(M. W. Chandwani, J.)

(A. S. Chandurkar, J.)

Asmita