

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

WRIT PETITION NO.5152 OF 2022

Petitioner : Shri Nishadraj s/o Ankush Sawant,
Aged about 22 years, Occupation : Nil,
R/o Near Dr. Misar Hospital, Prashant Nagar,
Amravati, Tah. & District Amravati.

– Versus –

Respondents : 1] State of Maharashtra,
Through its Secretary,
General Administration Department,
Mantralaya, Mumbai – 32.
2] Chief Executive Officer,
Zilla Parishad, Amravati, District Amravati.
3] The Education Officer (Primary)
Zilla Parishad, Amravati,
District Amravati.

Mr. G.N. Khanzode, Advocate for the Petitioner.
Mrs. Kalyani Deshpande, A.G.P for Respondent No.1.
Mr. M.A. Sable, Advocate for Respondent Nos.2 & 3.

CORAM : **ROHIT B. DEO AND Y.G. KHOBRAGADE, JJ.**

DATE : **21st FEBRUARY, 2023.**

J U D G M E N T : *(Per Y.G. Khobragade, J.)*

Rule. Rule made returnable forthwith. Heard finally with the consent of the learned Counsel appearing for the respective parties.

02] By the present writ petition, the petitioner seeks issuance of appropriate writ order or direction against respondent No.2-Chief Executive Officer, Zilla Parishad, Nagpur to consider his claim for appointment on compassionate ground. The petitioner has further prayed for quashing and setting aside the impugned order dated 22/04/2022 issued by respondent No.2.

03] It is an admitted fact that Late Ankush Dharma Sawant, the father of the petitioner was working as a Center Head with respondent No.3, which comes under the control and administration of respondent No.2. However, on 04/04/2016, he died while he was in service. Thereafter, on 07/02/2017 the mother of the petitioner submitted an application with respondent No.2 for giving an appointment on compassionate ground to her son i.e. the petitioner. On 09/01/2018, the mother of the petitioner and widow of deceased Ankush died. After intimating the sad demise of the mother of the petitioner to respondent Nos.2 and 3 vide letter dated 31/07/2020, the petitioner was called upon to submit the documents as per Schedule-B. The petitioner submitted the said documents to respondent No.2 vide application dated 29/03/2022. However, on 22/04/2022, respondent No.2 issued impugned communication and informed the petitioner that his claim for appointment on compassionate ground is rejected on the count that the petitioner should have

approached respondent No.2 with application and relevant documents within one year from the date of attaining the age of majority.

04] Though the learned A.G.P for respondent No.1 and learned Counsel for respondent Nos.2 and 3 resisted the petition, they did not file their replies in spite of granting sufficient time.

05] In the case in hand, it *prima facie* appears that Late Ankush Sawant the father of the petitioner, who was permanent employee of respondent No.3, which comes under the control and administration of respondent No.2, died while in service on 04/04/2016. The State Government issued Government Resolution dated 21/09/2017 and framed a scheme for providing appointment on compassionate ground in respect of Class-III and Class-IV employees, if the employee dies during his service tenure. The respondents have not denied the fact that Late Ankush Sawant, the father of the petitioner died during his service tenure. It is also not in dispute that the mother of the petitioner and the widow of deceased employee submitted an application for grant of employment on compassionate ground on 07/02/2017 to the respondents. It has been submitted on behalf of the respondents that as per Clause 10(a) of Schedule-A of the Government Resolution dated 21/09/2017, the family member of the deceased employee should have submitted an

application within a period of one year and as per Clause 10(a)(a), the legal heir of the deceased employee could have applied within a period of one year from the date of attaining the age of majority. However, in the case in hand, it appears that the deceased employee Shri Ankush Dharma Sawant, the father of the petitioner, died on 04/04/2016 while in service and soon thereafter within a period of one year, the mother of the petitioner had submitted an application for grant of appointment on compassionate ground on 07/02/2017. Therefore, it appears that the mother of the petitioner had submitted an application within a period of one year from the death of her husband as per Clause 10(a) of Schedule-A provided under the Government Resolution dated 21/09/2017.

06] The record speaks that respondent No.3 vide communication dated 16/02/2017 forwarded the said application along with the proposal for consideration of the claim of petitioner to respondent No.2. But, subsequently the mother of the petitioner died on 09/01/2018 and said fact of the sad demise of the petitioner's mother was intimated to the respondents vide letter dated 31/07/2020. Thereafter, the petitioner was called upon to submit documents as per Schedule-B and in compliance of the said letter, the petitioner submitted documents on 29/03/2022. Since the mother of the petitioner submitted an application for grant of appointment on

compassionate ground on account of death of her husband while in service within a period of one year and she subsequently died on 09/01/2018 and thereafter the petitioner applied on 30/03/2022 for appointment on compassionate basis, which is after a lapse of approximately four years from the death of his mother. Since the petitioners' mother has submitted the application within one year from the death of her husband, it cannot be stated that within the prescribed time limit, no application for appointment on compassionate ground was submitted as per the Government Resolution dated 21/09/2017. Hence, the condition of Clause 10(a) of the Government Resolution dated 21/09/2017 cannot be invoked for denying the appointment on compassionate ground to the petitioner. However, the order impugned passed by respondent No.2 holding that no application under the prescribed format within limitation was submitted, does not appear justifiable. Therefore, the impugned order dated 22/04/2022 passed by respondent No.2 needs to be quashed and set aside.

07] In view of the above discussions, we are inclined to allow present petition and proceed to pass the following order:

ORDER

I. The impugned communication dated 22/04/2022 issued by

respondent No.2 is hereby quashed and set aside.

- II. Respondent No.2 is also hereby directed to consider the claim of the petitioner for appointment on compassionate basis on the post commensurate with his qualification.
- III. Rule is made absolute in the above terms with no order as to costs.

(Y.G. KHOBRAGADE, J.)

(ROHIT B. DEO, J.)

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