



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

WRIT PETITION NO. 1417/2018

Vipin S/O Late Arun Adulkar

Vs

The Comptroller And Auditor General Of India, New Delhi And Another

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

Court's or Judge's Order

Mr. S.S. Ghate, counsel for petitioner.

Ms. Mugdha R. Chandurkar, counsel for respondent Nos. 1 and 2.

CORAM: AVINASH G. GHAROTE &
URMILA JOSHI-PHALKE, JJ

DATED : 27/09/2023.

1. Heard Mr. S.S. Ghate, learned counsel for petitioner and Mrs. Mugdha R. Chandurkar, learned counsel for respondent Nos. 1 and 2.

2. The petition questions the order dated 01/08/2017 passed in O.A. No. 2139/2013 by the learned Central Administrative Tribunal, Mumbai Bench, Camp at Nagpur, dismissing the claim of the petitioner and so also, the order dated 27/08/2012 by the Senior Accounts Officer/HRM-1, Nagpur and the order dated 26/03/2013 by the Accountant General and Appellate Authority.

3. The facts of the matter indicate, that the father of the petitioner, who was employed as Senior Accountant with the respondent No.2, passed away on 24.4.08 as a result of which, the petitioner, who was

the son applied for compassionate appointment. The claim was rejected by the communications dated 25/02/2010 (Page-35), 27/08/2012 (Page-36) and 26/03/2013 (Page-39), all of which were challenged before the Central Administrative Tribunal, Mumbai Bench, Camp at Nagpur in O.A. No. 2139/2013 which has been dismissed by the impugned judgment 01/08/2017.

4. It is contended by Mr. S.S. Ghate, learned counsel for the petitioner, that the petitioner was entitled to be appointed on a compassionate basis being the son of the deceased employee and the fact that the policy for compassionate appointment cover the case of the petitioner. He also submits, that in a similar case filed by the widow of the similar deceased employee namely Swati wd/o Sandeep Kargutkar (O.A. No.2072/2011)(Page-110), the learned Tribunal, by the judgment dated 08/12/2014 has allowed the O.A. and directed to reconsider the claim of the said person, in pursuance to which she has been granted employment. He therefore, submits that since the petitioner was similarly situated, the petitioner ought to have granted the same relief.

5. Mrs Mugdha R. Chandurkar, learned counsel appearing for the respondents submits, that there is no

similarity between the case of Swati wd/o Sandeep Kargutkar and that of the petitioner, inasmuch as, in the case of Swati wd/o Sandeep Kargutkar, a loan was obtained by the deceased employee i.e her husband for purchase of a flat, and emoluments which were received after his demise had been expended in repayment of the loan, apart from which, there was no other immovable property available to her.

6. It is contended that the financial condition, and a capacity to maintain herself is a prime consideration, to be taken into account for the purpose of grant of compassionate appointment and since in the case of Swati wd/o Sandeep Kargutkar, it was found that inspite of all the benefits which she had received, her case needed consideration. It is, therefore contended that there is no similarity with the case of the petitioner, in which the mother of the petitioner had already received substantial benefits on account of the demise of the petitioner's father in the year 2008 to the tune of Rs. 9,17,861/- which was apart from the pension of more than Rs. 10,000/- per month which over the period of time has increased because of the applicability of the various pay commissions. It is therefore submitted, that the case on the petitioner, has no equivalence with that of Swati wd/o Sandeep Kargutkar and therefore, is required to be dismissed.

7. In the instant matter, it is not in dispute, that the mother of the petitioner, has received the benefits as indicated in the chart at Annexure-R-4 (Page-177), at the time of demise of the father of petitioner, apart from which, a pension of more than Rs. 10,000/- per month has been granted to her in the year 2008, which over a period of time has increased. The very object of appointment on compassionate basis, is to provide immediate succour to the family in time of need as has been held in *Umesh Kumar Nagpal Vs. State of Haryana [(1994) 4 SCC 138]* and so also by the Full Bench of this Court in *Nilima Raju Khapekar Vs. The Executive Director, Bank of Baroda and others [2022 (3) Mh.L.J. 441]* and so also in *Central Bank of India Vs. Nitin* 2022 SCC OnLine SC 1873. It is thus apparent, that the family of the petitioner, was well secured on account of the emoluments, which were received by his mother on account of the demise of the bread earner. It is a settled position of law, that the grant of benefit of compassionate appointment, cannot be permitted as a matter of right nor as a matter of securing public employment by bypassing the regular mode of selection on merits, but is a situation to provide immediate succour to the family of the deceased employee. It is also come on record, that the father of the petitioner, owned a three storey

building in which the petitioner and his mother were residing at the time of the demise and continue to do so.

8. It is well apparent, that considering the object and purpose for compassionate appointment, the case of the petitioner is clearly beyond the purview and scope for which the same is created. We, therefore, do not see any reason to interfere in the judgment of the learned Tribunal as we do not find any merit in the contention. The question of any parity similar to the case of Swati wd/o Sandeep Kargutkar also would not arise in view of discussed above regarding the relative financial condition.

9. The petitioner is therefore **dismissed**. No cost.

JUDGE

JUDGE