



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

WRIT PETITION NO.889 OF 2018

(Dheeraj s/o Prakash Raut Vs. State of Maharashtra and anr.)

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

Court's or Judge's Order

Shri S.S. Joshi, Advocate for the petitioner.
Shri S.M. Ukey, Addl. G.P for respondent No.1.
Shri S.N. Bhattad, Advocate for respondent No.2.

**CORAM : AVINASH G. GHAROTE &
URMILA JOSHI-PHALKE, JJ.**
DATED : AUGUST 30, 2023

Heard learned Counsel for the petitioner.

2. The petition claims a declaration that the petitioner is entitled to the benefit of compassionate appointment on the demise of his mother in harness on 20/08/2005. Much water has flown thereafter still the plea of compassionate appointment according to the learned Counsel for the petitioner survives and he is entitled to be considered for such appointment.

3. The plea is opposed by Mr. Bhattad, learned Counsel appearing for respondent No.2 and Mr. Ukey, learned Assistant Government Pleader for respondent No.1.

4. The mother of the petitioner was employed as Class-IV employee with respondent No.2 and passed away on 20/08/2005.

5. The petitioner thereafter approached to the learned Industrial Court, Nagpur by Complaint No.338/2010, which came to be dismissed by judgment dated 28/09/2016 on the ground of limitation. Though it is contended that the learned Industrial Court did not have jurisdiction to entertain such claim on account of absence of relationship of employer and employee and the petitioner be granted concession on that ground, such a plea in our considered opinion is not available to the petitioner. That apart the policy in this regard dated 26/10/1994 indicates vide Clause 7-B that before considering a claim for compassionate appointment the family income of the petitioner has to be taken into consideration.

6. Mr. Bhattad, learned Counsel for respondent No.2 has submitted that the brother of the petitioner, was in employment with the Central Reserve Police Force as a Cook. The father of the petitioner namely Prakash Marotrao Raut was also earning Rs.2796/- per month and at that point of time the other brother of the petitioner was also in employment as per the inquiry report conducted by respondent No.2.

7. As per the inquiry report (page 35 clause 10) the father of the petitioner was also receiving the pension. Considering all these aspects, by the communication dated 21/10/2008, the petitioner has been held disqualified for compassionate appointment (page 14).

8. In that view of the matter, since the policy indicates consideration of the income and it has been found that the family of the petitioner at that point of time was having substantial income, and therefore, was not satisfying the requirement of the policy, in view of what has been said by the learned Full Bench of this Court in ***Nilima Raju Khapekar Vs. Executive Director, Bank of Baroda and others, 2022(3) Mh.L.J. 441***, in this regard that it is the need for immediate succour, which is the paramount factor to be considered, which considering the fact position availing and the passage of nearly 17 years from the date of demise of the employee, we do not see any reason to accept the plea of the petitioner for grant of compassionate appointment.

9. The petition is dismissed. No costs.

(URMILA JOSHI-PHALKE, J.)

(AVINASH G. GHAROTE ,J.)

**Divya*