



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

952. WRIT PETITION NO.4779 OF 2018

- 1] Pramila Bhaskar Harischandre
Age: 50 years, Occu : Household.
- 2] Mahesh Bhaskar Harischandre
Age: 25 Years, occu : Nil
Both R/o : Dehare Ves, Wambori
Post – Wambori, Tq. Rahuri
Dist. Ahmednagar.
- .. PETITIONERS**

VERSUS

Mahatma Phule Krishi Vidyapeeth
Rahuri, Tq. Rahuri,
Dist. Ahmednagar
Through its Registrar

.. RESPONDENT

...

Mr.P.V.Barde, Advocate for the petitioners
Mr.M.N.Navandar, Advocate for the respondent

...

CORAM : ARUN R. PEDNEKER, J.

DATE : 04.04.2024

ORDER :

- 1] By way of present Writ Petition, the petitioners challenge the order dated 05.10.2017 passed by Member, Industrial Court, Ahmednagar in Complaint [ULP]

No.87/2012, dismissing the claim of the petitioners for compassionate appointment.

Brief facts leading to filing the present Writ Petition can be summarized as under :

2] The husband of the petitioner no.1 and father of the petitioner no.2 was employed with the respondent – University since 1979. On 12.02.1996, father of the petitioner no.2 expired during the course of employment. Thereafter, the petitioner no.1 applied for compassionate appointment, however, it was rejected. The petitioner no.2 was minor at the time of demise of his father. He attained majority on 30.11.2010. The petitioner no.2 contended that he applied for compassionate appointment on 22.02.2011, 06.07.2012 and 30.07.2012. The respondent failed to consider the application of the petitioner no.2 for compassionate appointment. Thereafter, the petitioners filed complaint [ULP] No. 87/2012. The respondent University denied the contentions of the petitioners and submitted that there was no application made by the

petitioner no.2 on 22.02.2011 for compassionate appointment to the respondent – University. There is no such application on record and the same was inserted in the submission of the petitioners. There is no endorsement on the application for compassionate appointment given on 22.02.2011 and that respondent university in-ordinary circumstance give endorsement on such an application so also it is noticed that in the legal notice given by the petitioners, there is no mentioned about the application dated 22.02.2011 in the complaint. The complaint is filed on 10.09.2012 and in the complaint there is not mention about the application dated 22.02.2011. Thus, the Court held that there was no application on 22.02.2011. The application for compassionate appointment has to be made within one year on the date of attaining majority. Since the application was not within one year, the application for appointment could not be considered.

3] It is the contention of the petitioners that the petitioners applied for compassionate appointment on

29.11.2011 and also subsequently. It is further contended by the petitioners that there are subsequent Government Resolutions which allows the University to make compassionate appointments after attaining the age of majority within three years.

4] *Per contra*, the learned counsel for the respondent – University submits that there is no evidence as regards the application dated 29.11.2011 and that the findings recorded by the Industrial Court on this aspect cannot be faulted with. It is further submitted that the subsequent Government Resolutions are prospective in nature and they are issued after last date for application for appointment in terms of earlier Government Resolutions enforced at the relevant time had expired.

5] Having considered the rival submissions as there is no clear evidence as regards the application dated 29.11.2011, as such, the findings of the Industrial Court on this aspect that there is no application on 29.11.2011, cannot be faulted with more particularly when the

application does not have endorsement of the University and that there is no mention of the application dated 29.11.2011 in the complaint. Thus, based on the evidence the Tribunal held that there was no application filed by the petitioners for appointment within one year from the date of attaining the age of majority. As regards second contention it is to be noticed that the Government Resolution dated 11.09.1996 at the relevant time was applicable to the petitioners for grant of compassionate appointment and the relevant portion of the said Government Resolution is as under :

"सेवेत असताना दिवंगत झालेल्या किंवा दुर्धर व्याधीमुळे अकाली सेवानिवृत्ती झालेल्या कर्मचाऱ्याच्या कुटुंबातील अज्ञान वारसदारांच्या बाबतीत एकाने सज्ञान म्हणजे, १८ वर्षांचा झाल्यावर एक वर्षाच्या आत या योजनेखाली नौकरीसाठी अर्ज करावा. हे आदेश १ मार्च, १९९६ पासून अमलात येतील".

6] The petitioners are relying upon the subsequent Government Resolutions dated 26th February, 2014 and 20th May, 2015. If perusal of the aforesaid two Government Resolutions, it does not show that they can be applied retrospectively. Therefore, considering the the Government

Resolution dated 11.09.1996, the petitioners had not applied for compassionate appointment within a period of one year. Thus, based on the evidence that there was no application filed by the petitioners for compassionate appointment within one year from the date of attaining the age of majority, the impugned order of the Industrial Court is passed. I see no error in the impugned judgment. Hence, the present Writ Petition is dismissed.

[ARUN R. PEDNEKER]
JUDGE

DDC