



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

901 WRIT PETITION NO. 648 OF 2023

SUVARNA DINESH PATIL

VERSUS

CHIEF ENGINEER M. S. E. D. C. LTD JALGAON AND OTHERS

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Advocate for the Petitioner : Mr. Patil (Borse) Paresh B.

Advocate for Respondent nos. 1 to 4 : Mr. A.R. Salve

Advocate for Respondent no. 5 : Mr. A.N. Sikchi

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CORAM : MANGESH S. PATIL &
PRAFULLA S. KHUBALKAR , JJ.

DATE : 06.12.2024

PER COURT :

Heard both the sides.

2. The petitioner's husband was serving with respondent nos. 1 to 4, as a lineman and he having died during the course of the employment, she is seeking appointment on compassionate ground.

3. Admittedly, respondent nos. 1 to 4 are unable to appoint her under the scheme applicable for want of consent from respondent no. 5, who is her mother-in-law.

4. On the last date we had directed the learned advocates for the petitioner as also that of respondent no. 5 to explore as to if some consensus can be arrived in respect of the amount, which the petitioner would undertake to pay to respondent no. 5, once she gets the appointment, from and out of the salary, since the latter is widowed mother of the deceased and the scheme requires her consent.

5. The learned advocate for respondent nos. 1 to 4 submits that once the

petitioner is appointed, she would get a salary of around Rs. 18,000/- to Rs. 20,000/- per month during the period of probation and thereafter she would get salary in the defined scale/s.

6. The learned advocate for the petitioner, on instructions, submits that the petitioner would pay Rs. 5000/- per month to respondent no. 5. The learned advocate for respondent no. 5 submits that considering the aforementioned circumstances let the figure be determined, in the form of percentage of the salary to be received by the petitioner.

7. In our considered view, taking into account the fact that the petitioner has to maintain a 6/7 year girl child, it would be appropriate to obviate any future litigation between the two sides by fixing a round figure in respect of the amount to be paid by the petitioner to respondent no. 5 from and out of the salary, during the probation period and even thereafter, instead of by determining it percentage wise.

8. Taking a stock of the situation, since it is just for want of consent of respondent no. 5, that respondent nos. 1 to 4 have not been able to appoint the petitioner on compassionate ground for last few years, it would be appropriate that the petitioner is directed to submit an undertaking before this Court as also before respondent nos. 1 to 4 that she would pay Rs. 5000/- per month till the time she completes the probation and thereafter Rs. 10,000/- per month to respondent no. 5 during her lifetime.

9. Apart there from, it appears that the petitioner and respondent no. 5 have not been disbursed the other monetary benefits, which respondent nos. 1 to 4 have been holding back for want of a succession certificate. Respondent no. 5 had approached the civil court and the civil court has now issued a succession certificate under Section 372 of the Hindu Succession Act (page no. 60).

10. In light of above, we allow the petition in following terms:

(a) The petitioner shall submit an undertaking before this Court on affidavit as indicated herein above and a similar one with respondent nos. 1 to 4.

(b) After such undertaking affidavit is filed, respondent no. 5 shall immediately give a consent as is required by the scheme for appointment on the compassion ground.

(c) On such compliances being made, respondent nos. 1 to 4 shall consider the petitioner's application for appointment on compassionate ground, as expeditiously as possible and in any case within four weeks of making the aforementioned compliances.

(d) Respondent no.1 and 4 shall not refuse appointment even if respondent no.5 fails to give consent as directed herein above.

(e) Even if respondent no.5 fails to give consent, the petitioner's obligation as per the undertaking affidavit would continue of making monthly payments to respondent no.5.

(f) Respondent nos. 1 to 4 shall disburse the entire monetary benefits, which they are holding back, to the petitioner, Respondent no. 5, petitioner's minor daughter, which shall be paid to the petitioner as her guardian, in equal proportion, together with interest if any, within four weeks. On failure to disburse the amount as indicated herein above, respondent nos. 1 to 4 shall be liable to pay interest thereon at the rate of 9% p.a. till the entire payment is disbursed.

11. It is made clear that we are passing the order regarding compassionate appointment and fixing the liability of the petitioner qua respondent no. 5 only as a via media, leaving the parties to vindicate their civil rights against each other by following due process of law.

(PRAFULLA S. KHUBALKAR J.)

(MANGESH S. PATIL, J.)

mkd/-