



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3363 OF 2024

1. Tejas s/o Ramnath Kharat
Age 20 years, Occu: Education,
R/o Behind Jatra Hotel, Mahalaxmi Nagar,
Adgaon Shivar, Nashik, 422 003
2. Sarika wd/o Ramnath Kharat
Age 44 years, Occu: Household work
R/o As above

VERSUS

1. The State of Maharashtra
Through the Principal Secretary to
School Education Department,
Mantralaya, Mumbai 32
2. The Principal Secretary,
Rural Development Department,
Mantralaya, Mumbai 32
3. The Chief Executive Officer,
Zilla Parishad, Ahmednagar

... Respondents

Mr. S. T. Shelke, Advocate for the Petitioners,
Ms. Neha Kamble, AGP for Respondent Nos. 1 and 2/State
Ms. Kavita S. Bhale, Advocate for Respondent No.3.

CORAM : RAVINDRA V. GHUGE &
Y. G. KHOBRAGADE, JJ.

DATE : 14th June, 2024

JUDGMENT:

1. Rule. Rule made returnable forthwith and heard finally, by
the consent of the parties.
2. On 25th April, 2024, we had passed the following order:

“1. The Petitioner’s father passed away on 06.05.2011. The Petitioner became 18 years of age, on 04.08.2021. His mother, the widow, needs to tell us as to what is her date of birth, what was her age when her husband passed away, what are the service/death benefits received by her and the monthly pension being paid to her. She also needs to tell us whether she applied for compassionate.

2. The Petitioner shall add his mother as Petitioner No. 2. Petitioner No. 2 shall file an additional affidavit setting out the details with regard to the above stated aspects. Let such affidavit be filed on or before 09.05.2024.

3. List this Petition in the ‘urgent order’ category on 14.06.2024.

4. Office to accept the affidavit-in-reply of Respondent No. 3.”

3. The Petitioners have entered an additional affidavit through Petitioner No.2, who is widow. Her date of birth is 18.01.1980. She is 44 years and 5 months old. When her husband died, she was only 31 years old. She suffered a mental shock and, therefore, she started residing with her parents along with her son who is Petitioner No.1. She received Rs.2,06,520/- towards Gratuity and Rs.1,08,980/- towards Provident Fund. She is receiving family pension Rs.8,605/- per month. Several difficulties being suffered by her, have been set out in the additional affidavit dated 6th May, 2024.

4. The learned Advocate representing Respondent No.3, has vehemently opposed this Petition. It is contended that compassionate appointment is to be granted in order to provide immediate succour to the survivors. The Petitioner has received more than Rs. 3 lakhs

towards service benefits of her husband. Monthly pension of Rs.8,605/- is being received by her. After more than 13 years, the prayer for compassionate appointment cannot be entertained. She relies upon the GR dated 5th October, 2017, which would indicate that an eligible minor candidate can move an application within three years after attaining the age of 18 years. Hence, the Zilla Parishad does not have the authority to condone any delay.

5. Petitioner No.1 is born on 05.8.2003. He became 18 years of age on 04.08.2021. An application is alleged to be filed on 09.08.2021, however, there is no acknowledgment of service on the Zilla Parishad. The widow filed an application on 25.05.2023 i.e. within three years from the date, the son attained age of 18 years.

6. We are relying upon the following two orders passed by the Hon'ble Supreme Court:

(A) Order dated 06.03.2023 delivered in Civil Appeal No. 7489 of 2023 (Govinda Janardhan Gaikwad Vs. State of Maharashtra & ors.)

(B) Order dated 06.09.2021 delivered in Special Leave to Appeal (C) No. 19252/2018 (Seema Kausar Vs. State of Maharashtra & ors.)

7. In the above matters, the Hon'ble Supreme Court noted that the eligible minor candidate had moved an application for seeking compassionate appointment after attaining majority, within two years. The death occurred more than 15 years ago. The said candidate had

also got married and was working as a Labourer. However, the Hon'ble Supreme Court concluded that considering the concept of 'Welfare State', such objection should not be raised by the respondents, when the eligible candidate is making both ends meet by working as a labourer. Taking such such a view, the Hon'ble Supreme Court directed the prospective employer to consider the case of the appellant for grant of compassionate appointment.

8. In view of the above, **the Writ Petition is partly allowed.** The impugned rejection order dated 07.06.2023, is quashed and set aside.

9. Considering the GR dated 03.01.2017 and keeping in view the above referred orders of the Hon'ble Supreme Court, we direct that the delay stands condoned. As such, the application of the Petitioners dated 25.05.2023, moved through the widow, shall be the date for reference and Petitioner No.1 shall be enlisted as an eligible candidate for compassionate appointment on the basis of filing such application, meaning thereby, that he would be in the wait list of the eligible candidates as per the date of the application.

10. Rule is made absolute in the above terms.

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)