



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

20 WRIT PETITION NO. 7419 OF 2024

OMKAR HARDIPKUMAR KAKADE
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE SECRETARY AND ANOTHER

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Advocate for the Petitioner : Mr. Patil B.N.
AGP for Respondents/State : Mr. V.M. Kagne
.....

CORAM : RAVINDRA V. GHUGE &
Y.G. KHOBRAGADE, JJ.
DATE : 23rd July, 2024

PC. :-

1. The father of the Petitioner who was serving as a Talathi, expired on 03.02.2008. The widow moved an application for compassionate appointment on 16.01.2009. The Petitioner is the third child of the deceased and the widow. His date of birth is 06.05.2002. He moved an application for seeking compassionate appointment in place of his mother, on 21.07.2023. The widow received death service benefits of Rs.1,32,600/- and is receiving Rs.10,500/- p.m. towards pension.

2. The Full Bench of this Court in **Sunita Dinesh Gaikwad and Anr. Vs. The State of Maharashtra and Anr.; 2023 (5) Mh.L.J. 40**, dealt with the issue as to whether any eligible person from a family, which has more than two

children and the third child or the last child (beyond two) is born after 31.12.2001, could be denied compassionate appointment. The matter was referred to the Full Bench in view of the judgment delivered by the Division Bench, at the Principal Seat, in **Writ Petition No.7742/2014 (Ms. Kashabai Sheshrao Wagh V/s. The Zilla Parishad, Nashik and Ors.)**, decided on 03.07.2019 and the view taken by another Division Bench at the Principal Seat in the case of **Bhagyashree Pradeep Chopade V/s. Maharashtra Industrial Development Corporation and Ors.** (Writ Petition No.6819/2021), decided on 08.03.2022. The Full Bench finally concluded that the view taken in **Ms. Kashabai Sheshrao Wagh** (supra), cannot be endorsed and the view taken in **Bhagyashree Pradeep Chopade** (supra), is the correct view.

3. In view of the above and as the Petitioner is the third child born on 06.05.2002, we find that this Petition cannot be entertained. **The same is, therefore, dismissed.**

[Y.G. KHOBRADE, J.]

[RAVINDRA V. GHUGE, J.]