



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

WRIT PETITION NO.2801 OF 2024

Sandeep s/o Deepak Bhutale,
Age : 28 years, Occu : Nil,
R/o Ganesh Nagar, Latur,
Tal and Dist. Latur.

...PETITIONER

-VERSUS-

1. The State of Maharashtra.
Through its Secretary.
Urban Development Department,
Mantralaya, Mumbai.
2. The Municipal Commissioner,
Latur City Municipal Corporation,
Latur, Dist. Latur.

...RESPONDENTS

...
Ms.Akshara S. Madake, Advocate for the Petitioner.
Shri A.B. Girase, Government Pleader for Respondent
No.1/State.
Shri Suhas P. Urgunde, Advocate for Respondent No.2/MC.
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**CORAM : RAVINDRA V. GHUGE
&
R.M. JOSHI, JJ.**

DATE :- 13th March, 2024

ORAL JUDGMENT (Per Ravindra V. Ghuge, J.):

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2. With the assistance of the learned Advocates, we have perused the petition paper book. The learned Advocate for Respondent No.2/ Municipal Corporation has vehemently opposed the petition and submits that this petition deserves to be dismissed with heavy costs.

3. The issue raised in this petition falls in a narrow compass. The father of the Petitioner, namely, Deepak Bhutale was in employment with the Municipal Corporation on daily wages in class IV category. After working for several years and completing 240 days in continuous employment in each year, he had approached the Industrial Court for seeking permanency, in Complaint (ULP) No.45/2007 along with a large group of workers. By the judgment dated 09.03.2016, the Industrial Court allowed the Complaint. The Municipal Corporation preferred Writ Petition No.10710/2016. By judgment dated 10.01.2017, the Single Judge Bench issued certain directions by partly allowing the Writ Petition in the light of the judgment of this Court dated 13.12.2016 delivered in Writ Petition No.8847/2016 (***Municipal Corporation, Latur vs. Shivaji Dnyanoba Survase and others***).

4. The judgment of the Single Judge Bench was assailed before the Honourable Supreme Court in Special Leave Petition (Civil) Diary No.11039/2018. By order dated 17.09.2018, the SLP was dismissed.

5. It is undisputed that the Petitioner's father was regularized in employment. Prior to the order of the Honourable Supreme Court, the Petitioner's father passed away while in service on 07.11.2017. It is contended that the Petitioner was permitted to work in Class IV category without any official appointment letter. The learned Advocate for the Petitioner submits, on instructions, that the Petitioner is unaware as to the decision on his application for compassionate appointment.

6. The learned Advocate for the Municipal Corporation submits, on instructions, that a legal opinion was expressed by the legal advisor of the Municipal Corporation, who stated that compassionate appointment should not be given to the Petitioner. Hence, the Municipal Corporation did not grant the compassionate appointment. We find that it is not the stand of the Corporation that the Petitioner is not eligible. This issue, therefore, is not in dispute.

7. We do not wish to express any view on the legal opinion sought by the Municipal Corporation and one advanced by the legal advisor. Suffice it to say that, though the compassionate appointment is not a right, if a candidate is eligible to be appointed on compassionate basis in place of his father in the Class IV category and if there is no legal impediment, the claim has to be accepted.

8. In view of the above, **this Writ Petition is disposed off** with the direction to the Municipal Corporation to consider the claim of the Petitioner for compassionate appointment within a period of six months, keeping in view the judgment delivered by the Honourable Supreme Court in *Malaya Nanda Sethy vs. State of Orissa and others, 2022 SCC Online (SC) 684*. Such decision be communicated to the Petitioner and an appointment order be issued, since there is no dispute that the Petitioner is eligible.

9. Rule is made absolute in the above terms.