



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

43 WRIT PETITION NO. 2991 OF 2024

LATIKABAI UTTAM MAHAJAN

VERSUS

THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND OTHERS

Ms.A.S.Madake, Advocate for the Petitioner.

Mr.R.S.Wani, AGP for the Respondent/State.

Mr.Anjali Dube, Advocate for Respondent Nos. 4 to 10.

CORAM : RAVINDRA V. GHUGE &
R.M. JOSHI, JJ.

DATED : 19.03.2024

PC :-

01. The Petitioner moved her Application for compassionate appointment on 30.11.2012. The Municipal Corporation published a list of eligible candidates for compassionate appointment. The Petitioner's name is at Sr. No.11. Below her name, the name of the second wife of the deceased is also mentioned.

02. The second wife, namely, Chhaya had filed MARJI No.420 of 2012 seeking Succession Certificate. On 09.11.2012, the proceedings were granted. Therefore, the Petitioner filed MARJI No. 1097 of 2012 seeking revocation of that Succession Certificate. On 09.02.2018 the proceedings

were allowed. The earlier order granting Succession Certificate to Chhaya was cancelled and the Petitioner received the Succession Certificate. It is an admitted position that until then, the Corporation did not appoint either of the two ladies on compassionate basis.

03. The Petitioner approached this Court in Writ Petition No. 12897 of 2023. By judgment dated 21.12.2023, this Court ruled that the “Scheme for Compassionate Appointment Under Central Government” dated 02.08.2022, has been adopted by the State of Maharashtra and once a person who is listed as an eligible candidate for compassionate appointment in a list maintained by the employer, before he/she became 45 years of age, by passage of time, the said name cannot be delisted from such list only because the candidate became 45 plus, while awaiting compassionate appointment.

04. It is, thus, obvious that the Petitioner’s name was entered in the list of eligible candidates. Her appointment was kept in suspended animation until she received the Succession Certificate. We, thus, observed in our judgment dated 21.12.2023 in Writ Petition No. 12897 of 2023, that the Corporation now has to proceed and initiate appropriate action.

05. The Petitioner is before this Court being aggrieved by the impugned order dated 05.03.2024, declining to grant her an appointment order on the ground that she has crossed 45 years. Having concluded that her name is already in the list of eligible candidates published a decade ago, when she was less than 45, this matter need not be kept pending.

06. There is one more reason why we do not wish to keep this matter pending. The Corporation has entered an affidavit-in-reply through Mr. Rahul Baburao Suryawanshi, Dy. Commissioner (Establishment) dated 19.03.2024, wherein it is stated that the impugned order shall be recalled and an appropriate order shall be passed.

07. Since all the decks are cleared for the Petitioner to be granted compassionate appointment, we would expect the Corporation to issue an appointment order on compassionate basis to the Petitioner within 15 days from today. We direct that, the Code of Conduct will not be an impediment for issuance of such appointment order, under the orders of this Court.

06. **This Writ Petition is allowed.** The impugned order does not survive as the Corporation has withdrawn the same.

[R.M. JOSHI,J.]

[RAVINDRA V. GHUGE,J.]