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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

53 WRIT PETITION NO. 8032 OF 2019

VAIBHAV RAJUSING RAJPUT
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Mr.R.V.Gore, Advocate for the petitioner.
Ms.V.N.Patil-Jadhav, AGP for the respondent/State.

(CORAM : MANGESH S. PATIL AND
PRAFULLA S. KHUBALKAR, JJ.)

DATE : DECEMBER 16, 2024

PER COURT :

1. Heard both the sides finally at the stage of admission.
2. The petitioner's father was appointed as a PSI and was serving with the respondents. However, he died on 16.10.2001 in an accident. Since the petitioner was minor at that time, he made an application seeking appointment on compassionate ground on 05.01.2017. His application was rejected on the ground that his father was a Group B employee, and he was not entitled to derive the benefits of the scheme for compassionate appointment. He challenged the said decision in the form of Original Application before the Maharashtra

Administrative Tribunal, which dismissed it.

3. The learned Advocate Mr.Gore for the petitioner submits that inconsistent with the observations of this Court in similar matter, wherein the deceased was also serving as a PSI in **WP No.5440/2009 Dinesh Shamrao Sonawane Vs. The State of Maharashtra and Others, decided on 05.02.2010**, holding the deceased therein as a Group 'C' category employee and the scheme for compassionate appointment was therefore applicable, the respondents and the Tribunal have overlooked that decision. He would submit that even reference to the Government Resolution dated 27.05.2016 is half hearted and completely ignores Clause 2 of the GR, which incidently was referred to by a division bench of this Court in the matter of **Ramhari Govind Sontakke Vs. The State of Maharashtra and others in WP No.13166/2019, decided on 25.10.2021**. He, therefore, submits that in the light of such consistent view of the division benches of this Court, the impugned order of the respondents as also the order of the Tribunal, is not sustainable and may be quashed, set aside and reversed.

4. The learned AGP opposes the petition. She would submit

that the Tribunal has rightly referred to the GR dated 02.07.2002, which prescribes the scales provided therein as the determinative factor for deciding whether a particular post falls in category A, B, C or D.

5. In our considered view, the issue has already been addressed by the division benches referring to the selfsame Government Resolution categorising the employees in 4 groups depending upon the scale of their respective salaries. However, clause 2 of the GR, reference to which is conspicuously absent in the order under challenge, it was also resolved that the decisions in paragraph Nos. 3 to 6 for the GR dated 02.07.2002, it was on a similar lines categorising the employees depending upon the scales of their salaries, it was also declared that the classification done at the time of entry into the employment or while creating the post or for settling the staffing pattern, would remain the same. Meaning thereby that irrespective of the GR/circular dated 27.05.2016, the classification which was already done, remained undisturbed.

6. As has been decided in the matter of Ramhari (supra), a similar decision of the Maharashtra Administrative Tribunal in that

matter was not compatible with this 2nd clause. Pertinently, all the respondents in the matter of Ramhari Govind (supra) are the respondents herein as well.

7. In the light of the above, once it is seen that being a PSI, the father of the deceased was a group 'C' employee. The decision of the respondents in treating him in Group B and rejecting the petitioner's application for appointment on compassionate ground, would not sustain and so would be the case in respect of the order of the Tribunal under challenge.

8. The writ petition is allowed partly. The impugned orders are quashed and set aside. The respondents shall consider the petitioner's application in accordance with law and the scheme applicable, as expeditiously as possible, and in any case, within 6 weeks.

(PRAFULLA S. KHUBALKAR, J.)

(MANGESH S. PATIL, J.)