



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

WRIT PETITION NO. 11068 OF 2024

Shila Tryambakrao Waghmare @
Shila Suresh Shirse .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri Sanjaykumar B. Bhosale, Advocate for the Petitioner.
Shri S. R. Wakale, A.G.P. for the Respondent Nos. 1 to 3.
Shri Krishna P. Rodge, Advocate for the Respondent No. 4.

**CORAM : MANGESH S. PATIL AND
SHAILESH P. BRAHME, JJ.
DATE : 07 OCTOBER 2024.**

FINAL ORDER (Shailesh P. Brahme, J.) :-

. Heard learned counsel Mr. Sanjaykumar B. Bhosale for the petitioner, learned Assistant Government Pleader for respondent Nos. 1 to 3 and Mr. Krushna Rodge, learned counsel for the respondent No. 4.

2. The petitioner is challenging common judgment and order dated 23.08.2024 passed by the Maharashtra Administrative Tribunal in Original Application No. 706 of 2022 and Original Application No. 870 of 2024. The petitioner and the respondent No. 4 are issues of deceased Trimbakrao Vitthalrao Waghmare, who was working as an instructor, but passed away on 12.01.2013. The respondent No. 4 and the present petitioner are putting up rival claims for appointment on compassionate ground

and for that purpose approached the Maharashtra Administrative Tribunal by separate applications. The petitioner's application was rejected and application of the respondent No. 4 was allowed. The respondent Nos. 2 and 3 were directed to appoint the respondent No. 4 expeditiously.

3. The learned counsel for the petitioner submits that the Tribunal had no power to direct the respondent Nos. 2 and 3 to appoint the respondent No. 4. It is submitted that the petitioner is a divorcee and was looking after other legal heirs. According to the Government Resolution dated 21.09.2017, she is entitled to be appointed on compassionate ground. It is further submitted that she did not give any no objection for the appointment of the respondent No. 4 on compassionate ground, hence he is not eligible for the appointment. It is further contended that she is a contractual employee and not a regular one and is ready to maintain their mother. The Tribunal has committed an error of jurisdiction and impugned judgment is liable to be quashed.

4. The respondents support the impugned judgment and order. According to them there is neither any perversity, nor is any error of jurisdiction in rejecting the claim of the petitioner. A reasonable and possible view has been taken by the Tribunal, which calls for no interference.

5. The compassionate appointments are regulated by the policies of the State Government. The petitioner's father died on 12.01.2013. In view of the ratio laid down by the Supreme Court

in the matters of Indian Bank and others Vs. Promila and others; (2020) 2 SCC 729 and State of Madhya Pradesh and others Vs. Amit Shrivastava; (2020) 10 SCC 496, the Government Resolutions dated 26.10.1994 and 23.08.1996 were applicable. The Government Resolution dated 21.09.2017 can have no application. The findings recorded by the Tribunal in this regard are proper.

6. The petitioner belatedly submitted her objection to the claim of respondent No. 4. We do not see any infirmity in the findings recorded by the Tribunal that it is nobody's case that after death of their father entire family was dependent on the earning of the petitioner or that she was maintaining the family. The respondent authorities should have considered application of respondent No. 4 in time instead of keeping it pending upto 2021.

7. We have gone through the Government Resolution dated 23 August 1996. Following is the relevant provision :

Characteristics of the scheme for Compassionate Appointment

1. Purpose :-
2. Eligible relatives :-
 - (A) Husband/Wife, son, unmarried daughter
 - (B) In respect of unmarried government employee, completely dependent unmarried brother or sister.
 - (C) If son is not alive of the deceased government employee in that case his daughter in law.

8. The married daughter or divorcee daughter is not included in the list of eligible relatives. The petitioner's claim is not tenable.

9. Though in the operative part (B) of the impugned judgment a direction has been issued to the respondent Nos. 2 and 3 to appoint respondent No. 4 on compassionate ground, simultaneously his proposals dated 28.01.2013 and 30.09.2014 were directed to be decided expeditiously. The purport of the operative part is that respondent Nos. 2 and 3 should consider the proposals and thereafter take decision of appointing respondent No. 4 on compassionate ground.

10. We do not see any perversity or illegality in the impugned judgment and order. The writ petition is dismissed.

[SHAILESH P. BRAHME, J.] [MANGESH S. PATIL, J.]

bsb/Oct. 24