



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO. 1807 OF 2024**

SANGRAM VISHWANATH NAGAPALLE
VERSUS
MAHARASHTRA GRAMIN BANK THROUGH ITS REGIONAL
MANAGER AND OTHERS

...
Mr. Panditrao S. Anerao, Advocate for the Petitioner.
Mr. P. L. Shahane, Advocate for Respondent Nos.1 to 6.

...
**CORAM : RAVINDRA V. GHUGE AND
S. G. CHAPALGAONKAR, JJ.**
DATE : 16th FEBRUARY, 2024.

PER COURT:-

1. The petitioner's father passed away on 01.05.2002, when he was working as 'messenger' in the Class-IV category with the office of the respondent-Bank. He is survived by a wife, two sons and two daughters. The petitioner claims to be the eldest son. The wife was not eligible for compassionate appointment. The petitioner is 40 years of age today. He is married. He has children. He has been already working as a 'messenger' on daily wages with the same erstwhile Marathwada Gramin Bank from 2004 and even after Marathwada Gramin Bank merged into the Maharashtra Gramin Bank in 2009, the petitioner continued to be a 'messenger' on daily wages. He claims to have put in 20 years of service as a daily wager with respondent-Bank. Even today, he is in daily wages service as a 'messenger'.

2. The mother of the petitioner receives Rs.6552/- per month as pension.

3. Mr. Shahane, the learned Advocate appearing for respondent-Bank has vehemently opposed this Petition and prays for the dismissal of the Petition by imposing cost of Rs.1,00,000/-.

He relies upon the judgment delivered by the Division Bench of this Court dated **13.07.2023** in **Review Application (Civil) No.77 of 2023 (Nitish s/o Laxmanrao Pathe Vs. Maharashtra Gramin Bank)** and group of cases and judgment dated **03.01.2023** delivered in **Writ Petition No.2895 of 2022 (Kapil s/o Shivajirao Shinde Vs. Maharashtra Gramin Bank and Others)** and group of cases. This Court has held in paragraph nos.6 to 12 as under:

*“6. Considering the law laid down by the Honourable Supreme Court in **Fertilizers and Chemicals Travancore Ltd. And others. Vs. Anushree KB, (2022) SCC Online SC 1331, Director of Treasuries in Karnataka vs. Somyashree, (2021) SCC Online SC 704 and State of Uttar Pradesh and others vs. Premlata, (2022) 1 SCC 30**, the contention of the learned advocate for the petitioners no. 2 to 4, is fallacious. If this argument is to be accepted, the litigants, who are in deep-slumber, would wake up and make applications even after five years, 10 years or 15 years. This cannot be countenanced. Similar is the view taken by the Honourable Supreme Court in **Ahmednagar Mahanagar Palika vs. Ahmednagar Mahanagar Palika Kamgar Union, 2022 (III) CLR 859.***

7. In view of the above, we need to consider the case of Kapil Shivajirao Shinde, whose father passed away on 23.10.2018. He admittedly made an application in July, 2019, which was forwarded by the Degloor Branch to the Regional Office at Nanded on 07.08.2019 and thereafter, to the Divisional Office at Aurangabad, on 25.09.2019.

*8. Insofar as the judgment delivered by this Court in **Smt.Archana Arbat (supra)** is concerned, the four petitioners in the said case were already appointed by the respondent Bank on 04.09.2019 as the compassionate appointment scheme applicable to the public sector banks was made applicable to the respondent (Maharashtra Gramin Bank) vide coverage clause 1.1. After these four compassionate appointees were granted appointments and they resumed their employment, the Bank terminated their services in view of the resolution passed by the Board of Directors of the Bank on 27.02.2019 thereby, adopting the*

compassionate appointment scheme. This Court considered the conduct of the Bank in entertaining the cases of the compassionate appointees. After they were granted employment on compassionate basis, they were subsequently terminated vide order dated 12.03.2020 by taking a stand that when they were appointed on compassionate basis, the scheme was not adopted by the Bank. This Court negated the contention of the Bank as the termination was effected by passing a cryptic order without adhering to the principles of natural justice and by concluding that the scheme was considered by the Bank while granting appointments to these four persons. The respondent Bank has implemented the judgment of this Court dated 08.09.2021 and reinstated the four compassionate appointees.

9. *Keeping in view the law laid down by the Honourable Supreme Court in the above referred judgments, the stale claims for compassionate appointment cannot be entertained. On account of this reason, the claims put forth by the petitioners, namely, Afjalkhan Isakhan Pathan, Rohit Diliprao Khiste and Nitish Laxmanrao Pathe, cannot be entertained since they made their applications for compassionate appointment for the first time after three years, four years and five years, respectively, after the death of their fathers. Today, it is 08 years that have passed in the case of Nitish Pathe, 07 years in the case of Rohit Khiste and 06 years in the case of Afjalkhan Pathan. We are, therefore, not considering these three cases.*

10. *In the case of Kapil Shivajirao Shinde, his father passed away on 23.10.2018 and he moved his application for compassionate appointment in July, 2019 with the Degloor Branch, which forwarded it to the Regional Office at Nanded on 07.08.2019 and thereafter, the Divisional Office at Aurangabad received it on 25.09.2019. Drawing parity in the case of Kapil Shinde and Smt.Archana, Saurabh, Paradip and Akash (petitioners in Writ Petition No.8023/2020 decided by this Court vide judgment dated 08.09.2021), we are of the view that the case of Kapil Shinde can be considered as he had moved an application for compassionate appointment within nine months from the date of the demise of his father.*

11. *In view of the above, Writ Petition No.2895/2022 filed by Kapil Shivajirao Shinde is partly allowed. The communication dated 17.01.2022 is quashed and set aside*

only to the extent of the petitioner Kapil Shivajirao Shinde. We direct the respondents to consider his claim for compassionate appointment on it's own merits and depending upon the vacancies available. Rule is made partly absolute.

12. Insofar as Writ Petition Nos.2921/2022, 3024/2022 and 3025/2022 are concerned, for the reasons recorded above, these three Writ Petitions are dismissed. Rule is discharged."

4. Considering that the petitioner is working with the same Bank on daily wages as 'messenger' for almost 20 years, the widow receiving pension and the petitioner being now 40 years of age, we do not find that the Petition could be entertained to consider the request for compassionate appointment after 22 years. **This Petition is, therefore, disposed off.**

5. Since the Petitioner is working on daily wages as a 'messenger' with the Bank and keeping in view the law laid down in the matters of *Secretary, State of Karnataka and others Vs. Uma Devi (3) and others, (2006) 4 Supreme Court Cases 1* and *MSRTC Vs. Casteribe Rajya Parivahan Karmchari Sanghatana, (2009) 8 SCC 556*, we grant liberty to the Petitioner to raise an industrial dispute for seeking regularization of his service with the Bank. We make it clear that we have not expressed any opinion as regards the merits of the claim of the Petitioner. All contentions of all litigating parties are kept open.

(S. G. CHAPALGAONKAR)
JUDGE

(RAVINDRA V. GHUGE)
JUDGE