

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO. 9912 OF 2024**

Darshana Satish Katewal

**... Petitioner**

**Versus**

Solapur Municipal Corporation And Ors

**... Respondents**

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**Mr. Rohit D. Joshi** for *Petitioner*.

**Mr. Vishwanath Patil** *a/w Mr. Akshay Naidu & Ms. Nidhi Chavhan for Respondent No.1.*

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**CORAM : SANDEEP V. MARNE, J.**

**DATE : 10 DECEMBER 2024.**

**P.C.:**

1) **Rule.** Rule made returnable forthwith. With the consent of the learned counsel appearing for parties, Petition is taken up for hearing and disposal.

2) By the present Petition, Petitioner challenges Order dated 12 June 2024 passed by the learned Member Industrial Court, Solapur rejecting the application at Exhibit U-2 filed by her in Complaint (ULP) No. 21 of 2024. In Application at Exhibit U-2, she prayed for a restraint order against the Respondent Municipal Corporation not to terminate her services in pursuance of the show cause notice dated 1 March 2024 during pendency of the Complaint. The Industrial Court has rejected the application at Exhibit U-2.

3) I have heard Mr. Joshi, the learned counsel appearing for the Petitioner and Mr. Patil, the learned counsel appearing Respondent-Municipal Corporation.

4) After having considered the submissions canvassed by the learned counsel appearing for the parties, it is seen that the Petitioner has been appointed in the services of the Municipal Corporation on compassionate grounds by Order dated 3 March 2021 with effect from 5 March 2021 in place of her father who died in harness on 14 August 2007. It appears that the Petitioner was minor at that time and her mother had made an application for compassionate appointment of her daughter on 17 January 2008. To that application, a response was given by the Respondent-Municipal Corporation on 14 August 2008 stating that the Government Resolution dated 28 March 2001 provided for an embargo on grant of compassionate appointment to a ward of deceased government servant, who had more than two children born after 31 December 2001. The Municipal Corporation however advised Petitioner's mother that after Petitioner attained the age of majority, fresh application could be made within a period of one year for grant of compassionate appointment. It is Petitioner's case that the Municipal Corporation was thus fully aware about provisions of G.R. dated 28 March 2001 as well as birth of two children after 31 December 2001 to the deceased municipal servant. It is contended that after thorough scrutiny of the proposal, Respondent-Municipal Corporation took decision by adopting Resolution No. 104 dated 23 September 1985 for grant of compassionate appointment to the Petitioner. Accordingly, order dated 3 March 2021 was passed appointing the Petitioner on compassionate grounds on the post of

Computer Operator with effect from 5 March 2021. By now, Petitioner has put in more than three and half years of service. However, by show cause notice dated 1 March 2024 the Municipal Corporation has proposed termination of her service on the ground that her appointment was made inadvertently in ignorance of provisions of G.R. dated 28 March 2001.

5) It appears that in Complaint (ULP) No. 21 of 2024 filed by the Petitioner before the Industrial Court, Solapur an ad-interim order was passed in her favour on 18 March 2024. However, subsequently by Order dated 12 June 2024 the Industrial Court has proceeded to reject the application at Exhibit U-2. While issuing notice in the present petition vide order dated 16 July 2024, this Court has continued ad-interim order of the Industrial Court dated 18 March 2024. Accordingly, Petitioner continues to be in service of the Respondent-Municipal Corporation.

6) Considering above factual position, particularly the fact that Petitioner is the sole bread earner for the family and fairly a large family consisting of her mother and three siblings are dependent on her, coupled with the fact that the Petitioner enjoyed ad-interim protection from the Industrial Court and continues to remain in service till date, it would be appropriate that her complaint is taken up for decision in an expeditious manner and in the meantime her services are protected.

7) Mr. Joshi would also invite my attention to the fact that by Government Resolution dated 15 December 2022, three additional posts of Computer-Hardware are created on the

establishment of the Respondent-Municipal Corporation and that Petitioner had applied for her appointment against those posts by application dated 29 July 2024. The said application is rejected by communication dated 2 August 2024 stating that the posts of Computer-Hardware is to be filled in through nomination and not through promotions. Mr. Joshi would submit that, without prejudice to her rights and contentions in Complaint (ULP) No. 21 of 2024, Petitioner is desirous of applying for appointment on the post of Computer-Hardware as she is eligible for being appointed on those posts. Mr. Patil would however submit that the posts of Computer-Hardware would be filled in by adopting regular selection process though advertisement and Petitioner's standalone application cannot be considered for filling up those posts. He is unable to provide any timeline for initiation of selection process for filling up those posts. In fact, it is surprising that despite passage of two long years since sanction of posts, the Municipal Corporation has not taken steps for filling upto sanctioned posts of Computer-Hardware.

8) Though in ordinary course, the issue of validity of Petitioner's compassionate appointment on the post of Computer Operator is unconnected with selection for filling up an altogether different post of Computer-Hardware, since a unique situation is created where an indigent family member is told after 3 ½ years of her appointment that she was never really eligible for the same, this Court expects that during pendency of her Complaint before the Industrial Court, her candidature for appointment as Computer-Hardware is also considered. For that purpose, this Court hopes and trusts that the Respondent-Municipal Corporation shall take earnest steps for initiation of selection process for filling up the posts of Computer-Hardware. Thus even though the services of the

Petitioner would be continued with the Respondent-Municipal Corporation during pendency of Complaint (ULP) No. 21 of 2024, she would be entitled to apply for direct recruitment on the post of Computer-Hardware and in case she is found eligible and selected for such appointment, she can be appointed on the post of Computer Hardware notwithstanding pendency of Complaint (ULP) No. 21 of 2024. While considering her case for direct recruitment to the post of Computer-Hardware, Municipal Corporation would be mindful of the fact that she has been appointed on compassionate grounds on 5 March 2021 and is likely to lose her job on account of impugned show cause notice.

9) I accordingly proceed to pass the following order:

a) Order dated 12 June 2024 passed by the Member Industrial Court, Solapur is set aside.

b) The show cause notice dated 1 March 2024 shall remain stayed and the Respondent-Municipal Corporation shall not act thereon during pendency of the Complaint (ULP) No. 21 of 2024.

c) The Industrial Court, Solapur is requested to expedite the hearing of Complaint (ULP) No. 21 of 2024 and to make an endeavor to decide the same as expeditiously as possible, preferably within a period of one year.

d) Pendency of the Complaint (ULP) No. 21 of 2024 shall not come in the way of Petitioner applying for

direct recruitment on the post of Computer-Hardware and if eligible, her candidature shall be considered for such direct recruitment by according due consideration to the position that she is already functioning on compassionate appointment in the Municipal Corporation since 5 March 2021. The Municipal Corporation shall take immediate steps for initiating a selection process for filling up the three additional posts of Computer Hardware.

e) The Industrial Court shall decide the Complaint on its own merits, without being influenced, in any manner, by any of the observations made in the present order.

10) With the above direction, the Writ Petition is **allowed and disposed of**. Rule is made absolute. There shall be no order as to costs.

**[SANDEEP V. MARNE, J.]**