

WRIT PETITION NO. 15570 OF 2022

Director Higher Education,
Central Building and Others ... Respondents

Mr.Vaibhav Jagdale i/b. Mr.Shailesh Kharat for the Petitioners.
Ms.Nisha Mehra, AGP for the Respondent -State.

**CORAM : NITIN JAMDAR, AND
M.M. SATHAYE, JJ.**

DATE : 20 March 2024.

P.C. :

Heard the learned Counsel for the parties.

2. Petitioner No.1 is the wife and Petitioner No.2 is the son of the deceased employee, who was working with Respondent No.3-College as an Assistant Professor. The employee was expired on 8 January 2020.

3. On 5 February 2020, Petitioner No.1-wife made an application for appointment on compassionate basis. Thereafter, Petitioner No.1 wrote a letter to the Respondent -Management that

her application be cancelled because at that time since her children were not major, Petitioner No.1 had applied for compassionate appointment. In that application, Petitioner No.1 stated that Petitioner No.2 be appointed. Then, another application was made on 17 May 2022 stating that Petitioner No.2 was offered the post of Peon, however, Petitioner No.2's educational qualifications are of Laboratory Assistant. These letters were considered by the Respondent -Management. It was pointed out that when initial applications were made and the subsequent applications were made, in spite of the fact that the elder son was always eligible to be appointed, the name of Petitioner No. 2 was recommended. It was also stated that the elder son could have applied.

4. The learned Counsel for the Petitioners sought to contend that Petitioner No.1 had applied with a disturbed state of mind and thereafter withdrew her application. Petitioner No.2 had completed 18 years of age and it cannot be insisted upon the eldest son to apply, as he is pursuing an engineering course. The approach of the Petitioners shows misconception about the law governing compassionate appointment.

5. The legal position of appointment on a compassionate basis is settled through various decisions of this Court and the Hon'ble Supreme Court. The appointment on compassionate basis is an exception to the regular appointment through public participation.

The dominant purpose of granting compassionate employment is to enable the family to tide over the sudden crisis and to provide immediate financial support to the family of the deceased employee, who may be facing financial crisis due to the loss of the sole earning member. However, it is important to note that compassionate appointment is not a matter of right and depends on various factors.

6. The conduct of the Petitioners will show that the Petitioners have treated this appointment as a vested right. First application made by Petitioner No.1 was withdrawn. Thereafter, Petitioner No.1 made another application stating that her youngest son, that is, Petitioner No.2 be appointed on compassionate basis as he completed 18 years of age and her elder son has no objection for the same. One son had means to pursue engineering course. In view of all these letters and the conduct of the Petitioners, if the concerned Authorities have considered that it is not a case for appointment on compassionate basis on the ground that the family was in financial difficulty, we do not find this action is contrary to the law laid down in respect of compassionate appointments. The conduct of the Petitioners is not one of those for whom the policy is made, but of those who treat this appointment as a vested right. In fact, the impugned order itself suggested that the eldest son should apply. In these circumstances, we are not inclined to interfere in writ jurisdiction.

7. The writ petition is accordingly rejected.

(M.M. SATHAYE, J.)

(NITIN JAMDAR, J.)