



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

Misc. Civil Application (Review) No. 109 of 2024
in
Writ Petition No. 6411 of 2022 (D)

Mamta Wd/o. Nagendra Chouhan,
Aged about 39 years,
Occupation - Houshold,
R/o. Otr. No. MQ338,
WCL, Umred Sub Area Colony,
Dist – Nagpur.

... Applicant

- Versus -

(1) The Sub Area Manager/
Estate Officer,
Western Coal Field Ltd.
Umred Sub Area,
PO: Umred Project,
Dist-Nagpur- 441204.

(2) The Manager (Personnel)
Office at, Personnel Department,
Western Coal Field Ltd.
Umred Sub Area,
PO: Umred Project,
Dist-Nagpur- 441204.

... Respondents

Mr. A. J. Dhoble, Advocate for the applicant
Ms. Sakina Dawood, Advocate for the respondents

CORAM : VINAY JOSHI AND
ANIL L. PANSARE, JJ.

Date : 2-2-2024

JUDGMENT (Per : Anil L. Pansare, J.)

Heard.

2. Rule. Heard finally with consent of learned counsel appearing for the parties.

3. The applicant – original petitioner seeks review of order dated 13-10-2022 passed by this Court in Writ Petition No. 6411/2022. The petitioner came up with a case that her husband expired on 9-10-2014. The petitioner sought compassionate appointment. The petitioner had challenged communication dated 27-7-2022 issued by the respondents whereby the petitioner was directed to vacate the official residence provided to her deceased husband. This Court has declined the request by recording reasons inter alia in paragraph no. 5 which reads thus :

“5) In the present case, admittedly the death of husband of the petitioner had occurred way back on 9/10/2014, i.e. about eight years back. The petitioner has approached this Court now after the long gap of eight years since death of her husband. This long period of time, which has passed in between, in our considered view, has extinguished the need of the petitioner to seek immediate relief in the nature of compassionate appointment in order to enable her to tide over the financial duress. There is no financial emergency and there is no crisis as well, which befall the family of the petitioner. The very fact that the family of the petitioner has managed to survive for such a

long period of time itself shows that the need for rendering of immediate and urgent financial help in the nature of compassionate appointment has disappeared. Therefore, this case would be covered by the law laid down in respect of compassionate appointments.”

4. The review has been sought on the ground that the petitioner had, on 14-10-2014, filed application for compassionate appointment. The respondents issued letter dated 27-11-2014 calling upon the petitioner to produce death certificate of her husband. The petitioner at the time of filing writ petition could not supply copy of application dated 14-10-2014 as also copy of letter dated 27-11-2014. Thus, the documents, according to the petitioner ought to have been filed along with petition. The petitioner then states that the respondent has called upon the petitioner to produce legal heir certificate to decide her claim of compassionate appointment. Accordingly, petitioner approached civil court and filed application bearing MJC No. 10/2018. The Court granted heir-ship certificate on 16-2-2019. The petitioner submitted the same with the respondents. The respondents then sought certain clarifications as regards the name of nominee. The petitioner states that these facts were not placed before this Court and, therefore, these facts have been not considered by this Court while passing order dated 13-10-2022 and accordingly sought to review the order.

5. In our view, apart from the fact of absence of due diligence in filing the above documents, the reasons assigned by us to decline the prayer will have no bearing, had these documents been considered. We have declined to grant relief of compassionate appointment on the basis of inordinate delay in approaching this Court.

6. Learned counsel for the applicant submits that the delay has occurred because of pendency of MJC and other proceedings.

7. In our view, the reasons of delay is immaterial in as much as the prayer has been declined on the count of well settled principles of law that compassionate appointment, if not made within reasonable time, it will loose its significance. As the purpose of appointment is to extend immediate relief to enable the appointee to tide over the financial duress. The very fact that the family of petitioner has managed to survive for a long period of eight years was self sufficient reason to show that the immediate and urgent financial help has been disappeared. Having assigned these reasons to decline the prayer, we are unable to find any merit in the application by the applicant.

8. Learned counsel for the applicant has relied upon the judgment in the case of *Board of Control for Cricket in India and*

another Vs. Netaji Cricket Club and others [(2005) 4 SCC 741] wherein the Supreme Court held that the application seeking review would be maintainable not only upon new and important features of evidence or when there exists an error apparent on the face of the record but also if the same is necessitated on account of some mistake or for any other sufficient reason. The Court then explained that words “sufficient reason” in Order 47 Rule 1 of the Code are wide enough to include a misconception of fact or law by a Court or even ad Advocate.

9. The judgment will be of no help to the applicant for the simple reason that none of the ground as mentioned by the Supreme Court exist in the present case. Firstly, the application is completely silent on the aspect of due diligence and secondly, the documents, even if, considered have no bearings on the grounds upon which writ petition has been dismissed.

10. Learned counsel for the respondents has relied upon the judgment in the case of *State of West Bengal Vs. Debabrata Tiwari and others [2023 SCC OnLine SC 219]* wherein the well settled principle that sense of immediacy in the matter of compassionate appointment will be lost because of inordinate delay in approaching the Court.

11. Thus, we find no merit in the application. The same stands dismissed.

(Anil L. Pansare, J.)

(Vinay Joshi, J.)

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