



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

WRIT PETITION NO.5320 OF 2019

[Dnyaneshwar S/o Vishwanath Gadhe .Vs. State of Maharashtra and Ors.]

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Mr S. K. Tambde, Advocate for Petitioner.
Mr S. M. Ghodeswar, AGP for Respondent Nos.1 and 2.

CORAM : **AVINASH G. GHAROTE AND**
SMT. M. S. JAWALKAR, JJ.

DATE : **15th FEBRUARY, 2024.**

. Heard Mr Tambde, learned counsel for petitioner and Mr Ghodeswar, learned AGP for the respondent Nos.1 and 2. The learned counsel appears for respondent No.3 is absent.

2. The petition raises an interesting question as to the meaning and purpose of a policy for appointment on compassionate basis. The Hon'ble Apex Court, in **State of West Bengal vs. Debabrata Tiwari & Ors.**, reported in **2023 SCC Online SC 219**, has considered the rationale of the policy of compassionate appointment and has held that on account of delay on the part of the applicant in claiming of compassionate appointment or the authorities in deciding the claim, the sense of immediacy is diluted and lost.

3. In the instant case, the father of the petitioner, who was in employment in Zilla Parishad/respondent No.3 did not report for duty from 14.05.1998. The mother of the petitioner, however, for reasons best know to Zilla Parishad was granted pension in the year 1999. This was without a declaration

being obtained regarding the civil death of Vishwanath Kisan Gadhe.

4. Be that as it may, it is claimed that such a declaration regarding the civil death of Vishwanath Kisan Gadhe was given by the Civil Court on 28.04.2011 (Page 41), consequent to which, it is contended that the petitioner had applied for being appointed on compassionate basis. Though, an application at page 55 is being pointed out, unfortunately it does not bear any date. The endorsement of acceptance of this application by the Zilla Parishad, Buldhana, is on a separate page and therefore does not relate to this undated application. Another application pointed out at page 64 dated 30.03.2015, which is claimed to have been sent by a registered post, also does not bear a seal of Zilla Parishad, Buldhana indicating its receipt. It is then stated that an application was made on 14.07.2015 at page 73, this also does not bear any date, on which it is claimed to have been sent and the endorsement of the Zilla Parishad, Buldhana, which is on the acknowledgment (Page 74), also does not bear the year in which it is claimed to have been received, though from the postal seal, it can be said, it is of the year 2015. The claim of the petitioner for compassionate appointment has been rejected by the State by its communication date 13.09.2017 (Page 93). Further persuasion, in spite of the rejection of the petitioner has resulted into communication dated 07.04.2015 being issued by the Zilla Parishad, Buldhana, stating that the application for compassionate appointment itself, is not available in the record of the respondent No.3, and therefore, his claim to

include his name in the waiting list on the compassionate appointment cannot be considered (Page 96).

5. What is material to note, is that since the original employee Vishwanath Kisan Gadhe was not traceable since 1998, the wife, has already been granted pension. Since 1999 till date, a period of more than 23 years has already lapsed. The claim for being included in the wait list, has therefore, to be looked into in light of what has been held in Debabrata Tiwari (supra) para 7.5. The very purpose of providing compassionate appointment is rendering immediate succor to the family in time of need and the claim cannot be used as a backdoor entry to public employment.

6. What is also material to note that the declaration regarding civil death of Vishwanath Kisan Gadhe, was granted in 2011, however, the petitioner has not been able to demonstrate that even thereafter, within a reasonable period of time, an application for compassionate appointment was made. The only claim to such an application is by the document at page 73, which is of the year 2015 and thereafter also there is no follow up. The passage of time, therefore, in our considered opinion, defeats the entire claim which is now being made by the petitioner, in view of which, we do not see any reason to interfere in the petition. The petition is, therefore, dismissed. No costs.

(M. S. JAWALKAR, J.)

(AVINASH G. GHAROTE, J.)