



**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.2544 OF 2020

Shaikh Mujeeb s/o Shaikh Gafar ... **PETITIONER**

VERSUS

The State of Maharashtra & ors. ... **RESPONDENTS**

.....
Mr. Sujit A. Patil, Advocate for petitioner
Mr. S.B. Pulkundwar, A.G.P. for respondents No.1 to 3
.....

**CORAM : R.G. AVACHAT AND
NEERAJ P. DHOTE, JJ.**

Date of reserving order : 21st July, 2025

Date of pronouncing order : 6th October, 2025

ORDER (PER : R.G. AVACHAT, J.):

The challenge in this Writ Petition, under Article 226 of the Constitution of India, is to the judgment and order dated 3/12/2018, passed by Maharashtra Administrative Tribunal (MAT), Bench at Aurangabad in Original Application (OA) No.879/2016. Vide the impugned order, the claim of the petitioner for compassionate appointment was turned down.

2. Heard. The petitioner's father was serving as a Sweeper with the office of respondents No.2 and 3. The petitioner's father died in harness on 11/4/2000. The petitioner was 6 years of age while his father breathed his last. The petitioner's mother, therefore, preferred application for compassionate appointment. The application was preferred within a period of one year from the demise of the petitioner's father. In May 2011, the petitioner's mother moved the respondent No.3 to inform her inability to serve on the ground of health reason. She, therefore, moved application in the name of the petitioner and urged for grant of employment to him.

3. The respondent authorities first removed the name of the petitioner's mother from the wait list, on the ground of her to have attained the age of 40 years. As per the scheme of compassionate appointment then prevailing, a candidate above 40 years of age was not eligible to secure such appointment. The application of the petitioner although was recommended by the Head of the Department of his father, it was turned down on the ground of the petitioner to have moved the application 7 years after his mother's name was

removed from the wait list on the ground of having crossed the age criteria.

4. The petitioner, therefore, moved the MAT. The MAT, vide its impugned judgment and order, turned down the petitioner's application for the very reason of delay of 7 years in making the application for compassionate appointment.

5. The learned Advocate for the petitioner would submit that, the application moved by the petitioner was well within reasonable time of his attaining majority. The OA moved by the petitioner's mother was within a time-frame of one year from the demise of the petitioner's father. According to him, the family of the petitioner has still been in financial distress. The petitioner's father was serving as a Sweeper, the lowest rank in the cadre of Class IV employees. The petitioner even moved the application for securing a job in the cadre of Class IV employee. In support of his contention, the learned Advocate has relied on the judgment of the Apex Court in case of **Govinda Janardan Gaikwad Vs. State of Maharashtra & ors. (2023 DGLS (SC) 1359 (Supreme Court)**. He also relied on the State Government policy in regard of compassionate appointment, whereunder substitution of a name of one of the

family members died in harness is permissible. The learned Advocate, therefore, urged for allowing the Writ Petition.

6. The learned A.G.P. supports the order impugned herein.

7. We have considered the submissions advanced. Perused the citation relied on. Also perused the scheme for compassionate appointment then prevailing.

8. The father of the petitioner was admittedly serving as a Sweeper. He died on 11/4/2000. The petitioner's mother (widow of the deceased) preferred application for compassionate appointment. At the time of death of his father, the petitioner was just 6 years of age. The record indicates that, 11 years after the demise of the petitioner's father, his mother moved an application to the authorities concerned, informing them her inability to work. In the very application, she urged to accept the application of her son, the petitioner, in place of her application. Admittedly, the authorities turned down the said application on the ground of having been preferred 7 years after the demise of the petitioner's father. A communication dated 15/1/2013 is on record. It was informed

by the Section Officer that the petitioner made the application 7 years after the name of the petitioner's mother was removed from the wait list.

9. It needs no mention that the scheme of compassionate appointment is meant to provide immediate financial assistance to the members of the family of deceased employee. In the case in hand, the mother of the petitioner informed the authorities concerned her inability to work on compassionate appointment. The reason given was that, her health did not permit her to serve. The record further indicates that, her name from the wait list was removed on account of her to have attained the age of 40 years. As per the scheme then prevailing, a candidate above 40 years of age was not entitled for appointment on compassionate ground. Seven years after the name of petitioner's mother was deleted from the wait list, the application was moved by the petitioner. The delay of seven years has not been explained. There is no record to indicate on what day the petitioner attained the majority. Moreover, after the petitioner's application was turned down, the petitioner approached the MAT 3 ½ years thereafter. It is true that, the petitioner's father was a Class IV

employee. The petitioner was eligible for a job on the post of Class IV employee. The facts, however, suggest that, inordinate delay in both, first in making application for compassionate appointment and then approaching the MAT, lead us to observe the family might not have been in need of immediate succor. The authority concerned rightly turned down the application. The MAT endorsed the said decision. We do not find any reason to interfere with those orders. The facts in the case of Govinda Gaikwad (supra) were altogether different. On close reading of the said citation, we are unable to gather the facts as to when did the family members of the deceased employee move an application for compassionate appointment. For want of detailed facts of the said case, the observations therein could not be made applicable to the case in hand.

10. For all the aforesaid reasons, the Writ Petition fails. It is dismissed.

(NEERAJ P. DHOTE, J.)

(R.G. AVACHAT, J.)

FMPathan/-