

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

1 WRIT PETITION NO. 3872 OF 2024

HARSHAL LAXMAN KOLHE
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY
AND ANOTHER

...
Mr. Yogesh Jadhav, Advocate for the petitioner.
Ms. R.R. Tandale, A.G.P. for respondent No.1/State.
Mr. L.V. Sangit, Advocate for respondent No.2.
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CORAM : R.G. AVACHAT AND
SANDIPKUMAR C. MORE, JJ.

DATED : 21 APRIL 2025

P.C. :

1. This petition under Article 226 of the Constitution of India is filed for the following main reliefs.

“B) By issuing appropriate writ or direction, in the like nature, the communication dated 10.03.2017 issued by the respondent No.2/Commissioner, Municipal Corporation, Jalgaon against the present petitioner, may kindly be quashed and set aside and thereby direct the respondent No.2 to consider his claim and issued appointment letter.

C) Be pleased to direct the respondent No.2 to add the name of present petitioner in the final waiting list instead of his mother name for compassionate appointment”.

2. Petitioner's father died in harness on 16.01.2012. He was Class-IV employee of the respondent Municipal Corporation. On his demise, his widow preferred an application on 15.02.2012 for appointment on compassionate ground. Her application remained pending with the Corporation. Since she crossed the age of 45 and was not medically fit to do the job, she gave application asking for giving compassionate appointment to her son i.e. the petitioner, who was then below 18 years. The proposal of the petitioner was turned down by the Corporation vide order dated 10.03.2017. Thereafter the petitioner approached this Court for the first time in 2024 i.e. after 7 years.

3. Learned Advocate for the Corporation has strong objection to allow the petition since according to him, the very purpose of grant of compassionate appointment was not there. Had the family of the petitioner was in dire need of finance, the petitioner would not have slept over his right. He submitted that the widow received an amount of Rs 2,20,360/- besides pension and the family pension which has now been increased upto Rs. 10,000/- per month. He would further submit that from year 2011, ninety candidates have been given employment on compassionate ground while there is still a wait list on

which there are 44 candidates. A right to be considered for compassionate appointment has been created in their favour. They are not before this Court. If the petition is allowed, giving the petitioner priority, they would be at the receiving end and would be affected even without hearing their case.

4. We have considered the submissions advanced. It is true that the scheme of compassionate appointment is not as of right. The fact, however, is that the petitioner's father was working as Class-IV employee. When he died in harness, the petitioner was below 18 years of age. His mother preferred application for compassionate appointment. When her turn came, she was found to have crossed the age limit and was even found medically unfit. She therefore preferred application of the petitioner. The same was turned down by the Corporation on 10.03.2017 for the reason that substitution was not permissible in view of the then prevailing Government Resolution. The fact is, however, thereafter the State of Maharashtra consolidated all the government resolutions issued in that regard and issued fresh Government Resolution dated 21.09.2017 without disturbing any of the previous government resolutions. Vide Government Resolution of the year 2010, the condition of quantum of amount received as

pensionary benefits and lump-sum amount is not to be considered. When the petitioner's father was Class-IV employee, on his demise in 2012, his widow must have received a meager amount of family pension besides a sum of Rs. 2,20,360/-

5. It is true that the petitioner has approached this Court very late. In para 10 of the petition he has tried to make out the grounds of penury and no legal advise, to approach the Courts of Law. He is now 27 years of age. Considering the fact that the petitioner's father was Class-IV employee and the family to have received a meager amount at the time of his death, although the family pension has now been Rs. 10,000/- per month, in the peculiar facts and circumstances of the case, we are inclined to allow the petition. The petitioner, however, would not be entitled to be placed at the position where at his mother would have been, had her application been granted, although there is Full Bench judgment in this regard the reasons therefor are, in between, there are 44 candidates in the wait list. None of them is before us. If the respondent Corporation is directed to consider the petitioner's claim as on the date of the application moved by his mother, then those 44 candidates are likely to be affected without

hearing their side. The petitioner came around to agree to be placed at the bottom of wait list as it stands as on today. In view of the same, we allow the writ petition directing the Corporation to grant the petitioner appointment on compassionate ground suitable to his educational qualification and in terms of the rules in that regard after the claim of the candidates so far in the wait list, is exhausted.

6. The petition is disposed of.

(SANDIPKUMAR C. MORE, J.)

(R.G. AVACHAT,J.)