



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

920 WRIT PETITION NO. 6814 OF 2022

SHUBHAM HANMANTRAO MYADARWAD

VERSUS

THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND
OTHERS

...

Mr. Karne G. J., Advocate for the Petitioner

Mr. Korde D. R., AGP for Respondent-State

....

**CORAM : S. G. MEHARE AND
SANDIPKUMAR C. MORE, JJ.**

DATED : 18/03/2025.

P. C. :

1. **Rule.** Rule made returnable forthwith. Heard finally with the consent of the respective counsels for the parties.

2. The petitioner is a son of Hanmant Bhumanna Myadarwad, who died on 23/02/1997 in harness while discharging the services as a Circle Inspector. At the time of his death, the petitioner was minor. Soon after the death of his father, his mother had applied for the compassionate appointment on 28/09/1999. The appointing authority of his father, had issued a letter dated 21/02/2004 & 05/05/2004 to her mother asking her to comply with requisite conditions for the compassionate appointment.

However, she did nothing and suddenly on 25/05/2016 she applied for the compassionate appointment of the petitioner. The petitioner also independently filed an application for the same appointment on 15/05/2018. The appointing authority took the decision and intimated by letter dated 12/04/2017. The petitioner had impugned the said decision before Maharashtra Administrative Tribunal. The Maharashtra Administration Tribunal appreciating the evidence and considering the law, rejected the application of the petitioner. Hence the petitioner is before us.

3. The learned counsel for the petitioner submits that there is no law to determine time to apply for the compassionate appointment. He would submit that the mother of the petitioner was illiterate, the documents which the Collector had sought to be submitted in 2004 were not required for the compassionate appointment. On the other hand he would argue that she did not possess those documents. However, facts remains that an employment was offered to his mother, but she did not join nor she ever challenge the letter seeking documents by the Collector. He would further submit that Hon'ble Supreme Court in case of ***Govind Janardhan Gaikwad vs. State of Maharashtra and others Civil Appeal No.7489 of 2023 {arising out of SLP(c)}***

No.3309/2023) dated 06/11/2023, has held that no specific time is prescribed for applying for the compassionate appointment. He would also argue that the petitioner's mother did not deliberately refuse the job. He also argued that the co-ordinate bench (to which one of us Justice S. G. Mehare was the member of the bench in Writ Petition No.7685 of 2022), held that the children, who were minor, may be substituted in place of the another member standing in the wait list for the compassionate appointment. He would argue that age and time is not the legal requirement for compassionate appointment. In addition thereto he relied on ***Kalpana Vilas Taram & another vs. State of Maharashtra through Secretary of Writ Petition No. 3701 of 2022*** with other many identical judgments and vehemently argued that this full bench judgment covers the issue involved in this matter. In sum and substance his argument revolve around, no age and time mandate for compassionate appointment. The petitioner had applied for compassionate appointment within a reasonable time. The that technical issues should not have been considered and compassionate appointment be granted to the petitioner. He prayed to allow the writ petition.

4. Per contra the learned AGP for the State submits that the learned MAT has considered the factual aspect in detail. He took this court through paragraph Nos.6, 7, 8, 9 & 10 of the judgment and argued that the petitioner did not apply within a reasonable time. As per his birth date recorded in the school leaving certificate, he had attained the majority on 06/04/2010. For the first time his mother applied in 2016 and he applied 2018. Therefore, on delay and laches he does not deserve the compassionate appointment. He would submit that the impugned order of the learned MAT is free from errors and illegality. There are no sufficient grounds to warrant interference in the impugned judgment and order.

5. We have gone through the impugned judgment. The learned MAT on the basis of the fact has recorded the finding that the District Collector by the letter dated 21/02/2004 and 05/05/2004 had granted the appointment to the mother of the petitioner with direction to submit the documents but she did nothing. Thereafter again an opportunity was granted to her by letter dated 13/07/2009. She again failed to comply with the requisite documents. She was cautioned by that letter that if she would fail to remain present with documents, her claim would be forfeited.

Since she did not respond it, her claim was forfeited due to her conduct. It has also been observed that by letter dated 10/06/2006 the Collector has informed his mother that her date of birth was 15/06/1968 and she has completed 40 years on 15/06/2008. Therefore, in view of the government resolution dated 22/8/2005, she became ineligible for compassionate appointment. It has also been observed that in response to the application of the applicant dated 30/03/2016 the authority replied him vide letter dated 10/06/2016 as well as 12/04/2017. The learned Tribunal has examined the facts and recorded the finding that the petition deserves to be dismissed on delay and latches.

6. As far as the case of **Govind Janardan Gaikwad** is concerned the Hon'ble Supreme Court has observed that it has not been pointed out that the appellant was required to apply within a specific time from date on which he attained the majority. Under this premise said order is passed. However, facts of the case at hand are altogether different. The government resolution was already in force at the relevant time. The Full Bench of Nagpur bench in the case of **Kalpana Vilas Taram** has discussed the entire scheme prevailing for the compassionate appointment. That scheme was provided a period of one year from the death of deceased employee for making application and in case of minor legal heir within a year

of attaining 18 years. Considering the scheme prevailing and its continuation, the petitioner could not satisfy that after attaining the majority he applied within one year. So far as the case of **Amol Navnath Lokhande**, for the petitioner is concerned, the facts of that case were that the mother of the petitioner was enlisted on the wait list of the compassionate appointment. However, no employment was offered to her and during the wait list was pending she had attained age of 45 years and she became debarred. Therefore, substitution of the name of the petitioner with her legal heirs of the deceased was allowed. On the basis of distinguishable facts this case also not helpful to the petitioner.

7. Considering the conduct of the mother of the petitioner and delayed claim, we do not find substance in this petitioner as well as grounds to warrant interference with the impugned order of the learned Maharashtra Administration Tribunal. The petition is devoid of merit. Hence, the petition stands dismissed. No order as to costs.

(SANDIPKUMAR C. MORE, J.)

(S. G. MEHARE, J.)