



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9926 OF 2022

Abhishek Babasaheb Gaikwad

..PETITIONER

VERSUS

State of Maharashtra and Others

..RESPONDENTS

....

Mr. A.S. Deshpande, Advocate for petitioner

Mr. P.S. Patil, A.G.P. for respondent no.1 – State

Mr. A.G. Vasmatkar, Advocate for respondent nos. 2 and 3

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CORAM : R.G. AVACHAT AND
SANDIPKUMAR C. MORE, JJ.

DATE : 24th APRIL, 2025

PER COURT :

1. This writ petition has been filed mainly for the following relief :-

“B. By way of writ of certiorari or any appropriate writ, order or directions in the like nature, this Hon’ble Court may kindly quash and set aside the impugned letter/order dated 19.08.2022 issued by the President, Parimandaliya Samittee, Maharashtra Jeevan Pradhikaran Mandal, Aurangabad and thereby direct to accept the application of the petitioner and enter his name in the wait list at the Serial Number from the date of his attaining age of majority for the compassionate appointment;”

2. The petitioner’s father was serving as Jal Sevak with Respondent No.2 – Maharashtra Jeevan Pradhikaran. He died on 18th October, 2009. Within one year of his demise, his widow (mother of the petitioner) preferred an application in the year 2010 for compassionate appointment. Her claim remained pending for the next eight years. Ultimately she was informed to have become ineligible on account of having crossed eligible age. She,

therefore, moved an application to the very authority with a request to appoint the petitioner, her son, on compassionate ground.

3. Learned counsel for the contesting respondent would submit that while the mother preferred the application, the petitioner was ineligible for appointment as he was minor. Learned counsel then submit that a lump-sum amount towards pensionary benefits besides family pension was given to the petitioner's mother. The petitioner has approached this Court late.

4. The matters relating to the compassionate appointment needs to be considered with compassion. Due to demise of the petitioner's father, who was Class IV employee way back in 2009, one can imagine how meager amount the family would have received towards retiral benefits and quantum of family pension as well. Moreover, vide Government Resolution of the year 2010, the quantum of amount received by the legal representatives of the deceased employee is not to be considered. The scheme is meant to tie over the financial crisis that unexpectedly fall in the family of the deceased employee. There was no fault of the petitioner's mother. She applied within the time limit, but for want of there being vacancy, her application remained pending for eight years. Then she became age barred. By that time the petitioner was minor. Within four months of passing of the impugned order, he was to attend the age of majority. She, therefore, applied for substitution of her name by the name of her son, i.e. the petitioner. In our view, the

authorities concerned ought to have kept the application pending since within four months the petitioner was going to attain age of majority. Full Bench judgment of this Court (Nagpur Bench) in case of ***Kalpana Vilas Taram and Anr. Vs. State of Maharashtra and Others, Writ Petition No. 3701 of 2022*** has observed that seeking substitution of the name of another member in place of a member who has applied, on account of crossing the age limit of 45 years is not contrary to the object and purpose for which compassionate appointment must be granted.

However, we are not allowing the petitioner to be placed at serial number in the wait list at which his predecessor was entitled since during interregnum about twenty-six candidates have been there in the wait list. They are not before this Court. Their claim is likely to be affected if the petitioner is placed above all of them. The petitioner is ready to have accommodation at the bottom of the wait list.

5. At the cost of repetition we observe that since it being a case of compassionate appointment and there having been no legal hurdle, we allow the petition with direction to the concerned respondent to place the petitioner at the bottom of the wait list as it stands today and give him suitable appointment in terms of rules and regulations under the scheme.

(SANDIPKUMAR C. MORE, J.)

(R.G. AVACHAT, J.)

SSD