



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.12002 OF 2025

- 1) Sunanda W/o Shashishekhar @ Nagesh Patil,
Age-423 years, Occu:Nil,
- 2) Shashishekhar @ Nagesh Patil
S/o Shrikant Patil,
Age-54 years, Occu:Nil,

Both R/o-House No.1477, Ghongde Lane,
Nath Chowk, Pandharpur,
Taluka-Pandharpur, District-Solapur.

...PETITIONERS

VERSUS

- 1) The State of Maharashtra,
(Through Principal Secretary,
Secondary and Higher Secondary
Education Department, Mantralaya,
Mumbai),
- 2) The Director of Education, Pune,
- 3) The Deputy Director of Education,
Latur Division, Latur,
- 4) The Education Officer (Secondary),
Zilla Parishad, Latur, District-Latur,
- 5) The Mahatma Basweshwar Shikshan
Sanstha, C/o-Mahatma Basweshwar
Mahavidyalaya Area, Gandhi Chowk,
Latur-413512, (Through its President),
- 6) The Head-Master,
Shridesi Kendra Vidyala, Latur,
Taluka-Latur, District-Latur.

...RESPONDENTS

...
Mr. Rajeev T. Deshmukh Advocate for Petitioners.
Mr. Nikhil S. Tekale, A.G.P. for Respondent Nos. 1 to 4.
...

**CORAM: SMT. VIBHA KANKANWADI AND
HITEN S. VENEGAVKAR, JJ.**

DATE : 3rd DECEMBER, 2025

ORDER [PER SMT. VIBHA KANKANWADI, J.] :

1. Present Petition has been filed for direction to respondents to appoint the petitioners on the post of Class-III or IV with respondent Nos.5 and 6 on compassionate basis in view of the Government Resolution dated 31st December 2022.

2. Heard learned Advocate Mr. Deshmukh appearing for the petitioners and learned AGP Mr. Tekale appearing for respondent Nos.1 to 4. There is no necessity to issue notice to respondent Nos.5 and 6. In order to cut short, it can be stated that the learned Advocate for the respective parties have argued in support of their contentions.

3. Before turning to the law involved, we would like to consider the merits. The first and foremost fact that is required to be considered is that petitioner No.2 is the son of one

Shrikant Bhimashankar Patil. Said Shrikant Bhimashankar Patil was serving as assistant teacher with respondent No.6 school run by respondent No.5 education society. He expired during his service period on 23rd February 1972. Petitioner No.2's mother i.e. wife of late Shri Shrikant had then applied for appointment on compassionate basis as well as for the family pension. The proposal for family pension was forwarded on 2nd July 1976 which was then communicated through Accountant General, Maharashtra on 29th August 1976. Petitioner No.2 became major in 1990 and then he made application seeking appointment on compassionate basis. The State Government by its letter dated 16th September 1998, directed the Education Officer, Zilla Parishad, Latur, respondent No.4 to deal with the issue regarding the appointment of petitioner No.2 on compassionate basis in view of the policy decision taken by the Government. Respondent No.4 then gave communication to respondent No.6 on 6th April 1999, to provide information about vacant posts in the school for the appointment of petitioner No.2 on compassionate basis. Even the Collector, Latur by letter dated 21st January 1997, directed the Chief Executive Officer, Zilla Parishad, Latur to take necessary legal steps. Thereafter the State Government passed Government Resolution dated 31st

December 2022, extending the benefits of compassionate appointment to the living family members of deceased employees. No steps were taken by the management though on various occasions mother of petitioner No.2 had requested for providing the benefits. Even this High Court in Writ Petition No.4219 of 2018, decided on 11th August 2021, had laid down the guidelines. Now petitioner No.2 is aged 54 years and will not get any appointment and therefore, he recommends the name of petitioner No.1, who is his wife, for the appointment on the compassionate basis.

4. The provision for compassionate appointment can be considered as the creation of law with an object to grant appointment to the dependent family member of a Government servant who died in harness or who has retired on medical grounds. It cannot be given in perpetuity to the generations to come. Here the father of petitioner No.2, late Shrikant expired on 23rd February 1972. Petitioner No.2 has not produced any document to show that his mother has made any such application. Even if she had made such application, when respondent Nos.5 and 6 were not responding, why she has not approached to the Courts of Law, is a question which has not

been answered. Further petitioner No.2 says that after he attained the majority in 1990, he had made an application. But then why he has not approached this Court at earlier point of time when he realized that respondent Nos.5 and 6 were not offering him any appointment, within the reasonable time is a question. Now, petitioner No.2 is 52 years of old and therefore, the Petition suffers from delay and laches.

5. In *State Bank of India and another vs. Raj Kumar*, AIR *OnLine 2010 SC 93*, it has been observed in Para Nos.6 and 7 as under:-

"6. It is now well settled that appointment on compassionate grounds is not a source of recruitment. On the other hand it is an exception to the general rule that recruitment to public services should be on the basis of merit, by an open invitation providing equal opportunity to all eligible persons to participate in the selection process. The dependants of employees, who die in harness, do not have any special claim or right to employment, except by way of the concession that may be extended by the employer under the Rules or by a separate scheme, to enable the family of the deceased to get over the sudden financial crisis. The claim for compassionate appointment is therefore traceable only to the scheme framed by the employer for such employment and there is no right whatsoever outside such scheme. An appointment under the scheme can be made only if the scheme is in force and not after it is abolished/withdrawn. It follows therefore that when a scheme is abolished, any

pending application seeking appointment under the scheme will also cease to exist, unless saved. The mere fact that an application was made when the scheme was in force, will not by itself create a right in favour of the applicant.

7. Normally the three basic requirements to claim appointment under any scheme for compassionate appointment are: (i) an application by a dependent family member of the deceased employee; (ii) fulfillment of the eligibility criteria prescribed under the scheme, for compassionate appointment; and (iii) availability of posts, for making such appointment. If a scheme provides for automatic appointment to a specified family member, on the death of any employee, without any of the aforesaid requirements, it can be said that the scheme creates a right in favour of the family member for appointment on the date of death of the employee. In such an event the scheme in force at the time of death would apply. On the other hand if a scheme provides that on the death of an employee, if a dependent family member is entitled to appointment merely on making of an application, whether any vacancy exists or not, and without the need to fulfill any eligibility criteria, then the scheme creates a right in favour of the applicant, on making the application and the scheme that was in force at the time when the application for compassionate appointment was filed, will apply. But such schemes are rare and in fact, virtually nil. "

6. Here, the petitioners now want the compassionate appointment for petitioner No.1 and her age is stated to be 42 years. She is the daughter-in-law of late Shri Shrikant and wife of petitioner No.2. As stated above, late Shri Shrikant expired on

23rd February 1972 and therefore, taking into consideration the age of petitioner No.1, it can be said that she was not even born when late Shrikant expired and she was not the family member of Shrikant at the time of his death. Therefore, the benefit of the scheme cannot be extended to such person. The Petition is based on mistaken belief. In fact the learned Advocate for the petitioners ought to have explained the law on this point to the petitioners and ought to have refrained them from filing such frivolous Petition. Because of such frivolous Petitions the pendency of this Court gets increased. We could have thought of imposing cost for filing such frivolous Petition, however, taking into consideration the financial condition of the petitioners, we are refraining ourselves.

7. The Writ Petition stands dismissed.

[HITEN S. VENEGAVKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE