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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.12729 OF 2016

Syed Layiq Syed Mahmood

PETITIONER

VERSUS

The State of Maharashtra and Others

RESPONDENTS

Mrs. U. T. Pathan, Advocate for the Petitioner

Mr. S.A.Mulla h/f R.K.Ingole, Advocate for Respondents No.2 & 3

Miss. N. B. Kamble, AGP for Respondent - State

[CORAM : NITIN B. SURYAWANSHI, &
VAISHALI PATIL-JADHAV, J. J.]

DATE : 8th DECEMBER, 2025

ORDER :

1. By this Petition, filed under Article 226 of the Constitution of India, the Petitioner seeks following reliefs :

“B. The Respondent No.2 viz. The Commissioner Nanded – Waghala Municipal Corporation, Nanded may kindly be directed to act upon the Resolution No. 93 passed by the G. B. in its General meeting dated: 30-11-2015 duly signed by the Mayor and to give an appointment to the Petitioner on compassionate grounds on the post of Clerk or any other post as may be deemed fit and expedient in the interest of justice.

B (1) The Government Resolution No. NWCMC-2016/PK. 180/NV-24 dated 1st August, 2019 passed by the Respondent No.1 thereby set aside the Resolution of the Standing Committee bearing Resolution

No.47 may kindly be quashed and set aside and the Resolution of Standing Committee bearing No. 47 dated 16-05-2016 may kindly be upheld and Respondent No.2 may kindly be directed to act upon the Resolution of the Standing Committee bearing No. 47 and Resolution No.93 passed by the G. B. in its General meeting dated 30-11-2015 duly signed by the Mayor.”

2. Admitted facts are that, Petitioner's father was in service of Respondent No.2 Corporation as Clerk. In the year 2013, Departmental Inquiry was initiated against father of the Petitioner for his repeatedly remaining absent from duty. On conclusion of the Departmental Inquiry, a punishment of compulsory retirement was imposed on him, by order dated 20th July, 2013. On 29th August, 2013, the Petitioner's father preferred Appeal before the Standing Committee under the provisions of section 56 (4) of the Bombay Provincial Municipal Corporations Act, 1949. During Pendency of the Appeal, father of the Petitioner expired on 15th March, 2014. Since the Appeal was not decided, the Petitioner approached this Court and pursuant to the directions issued by this Court in Writ Petition No. 2872 of 2015, the Standing Committee allowed the Appeal filed by the Petitioner's father, by Resolution No. 47 dated 16th May, 2016. In the meanwhile, the Petitioner was repeatedly filing Applications for appointment on compassionate ground, however, no decision was taken on the same.

3. Vide Government Resolution dated 1st August, 2019, the State Government rescinded Resolution No. 47 dated 16th May, 2016 of the Standing Committee, by considering the merits of the Matter. The Petitioner has approached this Court by challenging the said Government Resolution as well as seeking direction for appointment on compassionate ground.

4. Heard learned Advocate for the Petitioner, learned Advocate for Respondents No.2 and 3 and learned AGP for the State. Perused the record.

5. The case of the Petitioner is covered by Government Resolution dated 22nd August, 2005. Sub clause (1) of clause (2), of the said Resolution provides that compassionate appointments shall be admissible to the Class III and Class IV Government servants, who expired while in service. Admittedly, father of the Petitioner was compulsorily retired.

6. While passing the Government Resolution dated 1st August, 2019 by which Standing Committee Resolution No. 47 dated 16th May, 2016 is rescinded, the past service record of the Petitioner's father was taken into consideration. It is stated that he was not sincere in his duty and he was repeatedly suspended. Thereafter in spite of giving several opportunities, his conduct did not

improve. Therefore, to continue him in service is not in the interest of the Corporation. From the date of his appointment, his services were controversial and he was not loyal to his duties. Therefore, he was compulsorily retired from service on 20th July, 2013. It is further mentioned that, all the retiral benefits were conferred to the family of the Petitioner and mother of the Petitioner is getting regular family pension.

7. While passing the said resolution, all the relevant aspects of the case of the Petitioner's father were taken into consideration. The Government has assigned sound reasons and the decision is based on valid grounds. All the relevant aspects are considered by the Government while passing the said resolution. We, therefore, find no merit in the challenge raised by the Petitioner to the said Government Resolution.

The Petitioner then contends that, in terms of section 451 of the said Act, the Government has to take decision on the resolution passed by the Corporation within 30 days from its receipt. In the present case, the resolution was forwarded after 2 years from the date of its passing.

8. We are not impressed by the said submission. The Petitioner has no vested legal right to claim appointment on

compassionate ground. The object behind providing compassionate ground appointment is to provide immediate financial assistance / relief to the bereaved family due to sudden death of the sole earning member of the Family. In the present case, father of the Petitioner was compulsorily retired in the year 2013 and he expired in 2014. After passing of more than 11 years, we do not find that the Petitioner is entitled for compassionate ground appointment.

9. In the light of the aforesaid reasons there is no merit in the Petition. The same is therefore, dismissed.

[VAISHALI PATIL-JADHAV]
JUDGE

[NITIN B. SURYAWANSHI]
JUDGE