



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 13430 OF 2023

Rahul S/o Fulaji Bhotkar,
Age : 23 years, Occu : Unemployed,
R/o : Sasurwada, Tq. Sillod,
District Aurangabad

.. Petitioner

Versus

1] The State of Maharashtra,
Through its Secretary,
Rural Development Department,
Mantralaya, Mumbai – 32.

2] The Chief Executive Officer,
Zilla Parishad, Aurangabad,
Tq. & District Aurangabad

3] The Executive Engineer (Water Supply),
Rural Water Supply Department,
Zilla Parishad, Aurangabad

.. Respondents

...

Mr. Avishkar S. Shelke, Advocate for the Petitioner.

Mr. S.K. Tambe, AGP for respondent no. 1 – State.

Mr. C.D. Biradar, Advocate for Respondent nos. 2 and 3.

...

**CORAM : SHREE CHANDRASHEKHAR CJ. &
SMT. VIBHA V. KANKANWADI, JJ.**

DATE : 30th September 2025.

Per : Shree Chandrashekhhar, CJ :

Aggrieved by the decision of the Executive Engineer (Water Supply), the petitioner who is the son of a former employee

arp/

under the Water Supply Division of the Zilla Parishad has approached this Court.

2. The petitioner states that his father was employed as Valveman on daily-wages basis under the establishment of the Zilla Parishad since 1st May 1991. In view of the Kalelkar Award, a proposal was forwarded by the Zilla Parishad to the State Government for inclusion of the name of the employees working on daily-wages to be inducted as the regular employee of the Zilla Parishad. But the said proposal was rejected on 29th March 2008 by the State Government and that decision was taken to the High Court in Writ Petition No. 5324 of 2009 by Akhil Marathwada Zilla Parishad Kamgar Union. The petitioner states that the name of his father figured among 27 employees on whose behalf the said writ petition was filed. It is further stated that it was by virtue of the decision of this Court rendered on 03rd February 2016 that a direction was issued to the respondents to extend the benefit of Government Resolution dated 10th July 1974 in respect of those 27 employees including the father of the petitioner.

3. The petitioner further states that his father passed away on 15th October 2020 and he made an application for compassionate appointment on 07th December 2020. The said application moved by him was rejected on the ground that it was not in proper format. The petitioner further states that he made another application for compassionate appointment on 12th October 2021 after obtaining the heirship certificate. The petitioner makes a reference to another representation dated 08th May 2023 submitted by him and seeks to challenge the

decision of the respondent -Authority declining his claim for the compassionate appointment.

4. The learned counsel for the petitioner submits that the first application moved by the petitioner on 07th December 2020 was within time and, thereafter, the subsequent applications filed by him could not have been rejected on the ground of delay. The learned counsel for the petitioner refers to Clause 10(A) of the Government Resolution dated 21st September 2017 under which the respondent-Authority has power to extend the time by further two years.

5. In “*Shreejith L. v. Deputy Director (Education) Kerala and others*” (2012) 7 SCC 248, the Hon’ble Supreme Court held that in case an application is made by the legal heirs of a deceased employee claiming the benefit of the scheme for compassionate appointment, the deficiencies and defects in the said application ought to be pointed out to the person concerned to enable him to remove the same within a reasonable time. In paragraph no. 38 of the reported judgment, the Hon’ble Supreme Court held as under :-

“38. Having said that, we have no manner of doubt that in case an application is made by the legal heirs of a deceased employee claiming the benefit of the scheme for compassionate appointment, the deficiencies and defects, if any, in the said application ought to be pointed out to the person concerned to enable him to remove the same within a reasonable time. But if the defects are not removed within the time granted, an adverse inference could be drawn against the person in default. On the contrary, where an application is filed, entertained and eventually declined for a reason other than the form in which the same ought to have been filed, the rejection cannot be supported before the higher authority

or in the court on the ground that application was non est as the same was not in the prescribed form. The application for appointment filed on behalf of the respondent could not therefore have been rejected on the ground that the same was not in the prescribed form.”

6. The petitioner who lost his father at an early age has completed Bachelor of Science in April 2022. On a glance at the order dated 06th July 2023, we find that there is no controversy as to the eligibility and entitlement of the petitioner to seek compassionate appointment. This is well settled that the scheme of compassionate appointment emanates from humanitarian grounds to provide immediate relief to the family of the deceased employee to tide over the sudden financial crises. In *“Bhawani Prasad Sonkar v. Union of India & Ors.”* (2011) 4 SCC 209, the Hon'ble Supreme Court observed that the scheme of compassionate appointment is carved out in the interest of justice, in certain exigencies, by way of a policy which partakes the character of the service rules. In *“State Bank of India & Anr. v. Somvir Singh”* (2007) 4 SCC 778, the Hon'ble Supreme Court held that the right for consideration for appointment must be traceable under any scheme, executive instructions, rules, etc. framed by the employer and there can be no right whatsoever to claim compassionate appointment on any ground other than what has been provided by the employer. But then, the Employer cannot decline compassionate appointment to the dependent of the former employee on the ground of delay, if under the rules the respondent-Authority has been vested powers to condone the delay. There cannot be a dispute to this proposition that the writ Court cannot issue a

direction to the respondent-Authority to exercise its power to relax. However, the arbitrary decision of the respondent-Authority to reject the claim for compassionate appointment cannot be countenanced in law and such a decision shall fall within the ambit of judicial review under Article 226 of the Constitution of India.

7. The Government Resolution dated 21st September 2017 provides under Clause 10(A) that the respondent-Authority shall have power to condone the delay of two years and accept the application for compassionate appointment submitted beyond the period of one year. Moreover, in view of the pandemic of COVID-19, the so-called delay in making the second application on 12th December 2021 was required to be condoned, particularly, in view of the directions issued by the Hon'ble Supreme Court in *Suo Motu Writ Petition (C) No. 3 of 2020* that the period from 15th March 2020 till 28th February 2022 shall be excluded for the purpose of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings. The decision in "*Amol Sahebrao Suryawanshi v. State of Maharashtra & others*" 2022 SCC OnLine Bom 1696 clearly lays down that the Zilla Parishad cannot create two classes of employees to deny compassionate appointment to the dependents of the employees who were paid from self-generated fund. The Division Bench of this Court further held that the scheme for compassionate appointment formulated by the State Government was adopted by the Zilla Parishad and the said scheme was not formulated for any separate group of employees. We may also point out that 2nd

respondent-Zilla Parishad was one of the respondents added in “*Amol Sahebrao Suryawanshi*”. Still, the respondent-Authority did not address its attention to the decision of this Court and declined the claim for compassionate appointment in a mechanical manner. In view of the decision in “*Amol Sahebrao Suryawanshi*”, the opinion expressed by the respondent-Authority in its decision dated 06th July 2023 that the petitioner is not entitled for compassionate appointment is clearly wrong and erroneous.

8. In view of the aforesaid discussions, the impugned order dated 06th July 2023 issued by the respondent no. 2 and the letter dated 03rd July 2023 issued by the respondent no. 3 are quashed. The petitioner is held entitled for compassionate appointment and his name shall be included in the list of dependents claiming compassionate appointment as per the scheme.

9. Writ Petition No. 13430 of 2023 is allowed.

[SMT. VIBHA V. KANKANWADI, J.]

[CHIEF JUSTICE]