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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 4354 OF 2025

Rupali Kundlik Bhong ... Petitioner
Versus
The State of Maharashtra
Through Secretary, School
Education Dept. And Ors. ... Respondents

Mr. Rajaram Deshmukh, Advocate for the Petitioner.

Mr. K. S. Thorat, B'Panel Counsel for State.

Mr. Bhausahab Karekar, Education Officer – Present in Court.

**CORAM : RAVINDRA V. GHUGE AND
ASHWIN D. BHOBE, JJ.**

DATE : 7th OCTOBER, 2025

FINAL ORDER (Per : Ravindra V Ghuge, J)

1. On 6th October, 2025, we had passed the following order:-

“1. A widow, who was appointed on compassionate grounds to the post of Peon and has been working since then, is being made to run from pillar to post by the Education Officer (Secondary), Pune, Dr. Bhausahab Karekar, by keeping her proposal dated 26th July, 2019 for approval, pending. We cannot turn a blind eye to such conduct.

2. Let Respondent No.2 remain present in the Court tomorrow, i.e., 7th October, 2025, at 3.00 p.m.”

2. The afore stated order was in the light of the prayers put forth by the Petitioner under clauses (A) and (B), which read as:-

“[A] That this Honorable Court be pleased to issue a writ mandamus or writ in the nature of mandamus or any other appropriate writ direction and order under Article 226 of the Constitution of India. 1950, thereby pleased to direct the Respondent No. 2 to consider the proposal dated 26/7/2019 for an approval of the Petitioner for the post of peon upon compassionate basis.

[B] That this Honorable Court be pleased to issue a writ mandamus or writ in the nature of mandamus or any other appropriate writ direction and order under Article 226 of the Constitution of India. 1950, thereby pleased to direct the Respondent No. 2 to start the regular monthly salary to the permanent approved post of an peon and also give the arrears with interest @ 8-9% per annum alongwith consequential benefits if any.”

3. The Petitioner’s Husband was an Assistant Teacher with Aadarsh Madhyamik Vidyalaya, Kodrenagar, from 1st August 2005, operated by the Padmashri Dr. Aapasaheb Pawar Krushi Vidyalaya, Bori, Taluka Indapur, District Pune. On 14/06/2015, he passed away while in service. The Petitioner and her deceased husband, belonged to the OBC category. She acquired education up to the 11th standard. Two minor children and the widow survive the deceased Assistant Teacher. The

parents of the deceased are also residing with the Petitioner widow.

4. On 01/07/2016, the Petitioner was appointed as a Peon in place of Shri Mohan Narayan Pawar, who superannuated from the permanent post of a Peon, on 30/06/2016. The post occupied by Shri Pawar was an aided post of a Peon, as per the case emerging from the resolution passed by the Education Society, on 26/07/2019 for seeking approval to the appointment of the Petitioner.

5. There is no dispute that the proposal for seeking approval was pending since 26/07/2019. This proposal was before two successive Education Officers. The First Education Officer before whom the proposal was tendered, was Mrs. Sunanda Wakhare, who was the EO from 2019 to 2023. Dr. Bhausahab Karekar took over as the EO from 2024 in place of Mrs. Sunanda Wakhare.

6. After we passed the above reproduced order on 6th October, 2025, the learned AGP places before us today, a copy of the order dated 06/10/2025 (passed on the same date) by the said Education Officer. He concluded that there is no provision for granting approval to the appointment of a compassionate appointee, whose husband / father /

mother, as the case may be, who has died while being in an unaided institution. Since the copy of this order is tendered across the bar today, we permit the Petitioner to add a prayer to the prayer clauses for seeking quashing of the said order dated 06/10/2025, which is taken on record and marked as 'X' for identification.

7. Two things have emerged from this matter before us. **Firstly**, that the two Successive Education Officers had kept the proposal dated 26/07/2019, pending before them for more than 6 years. **Secondly**, the present Education Officer has now hurriedly passed an order by simply stating that there is no provision with the State Government to grant approval to the legal heir of the deceased if appointed on an aided post, in the backdrop of the deceased person working in an unaided establishment.

8. The learned Advocate for the Petitioner submits, on instructions, that the deceased Assistant Teacher was permanent in service, had put in 10 years as an Assistant Teacher and the entire school is grant-in-aid.

9. We do not find that the above-stated issue could be relevant while considering the act of a management of appointing a widow on an available vacant permanent post which is grant-in-aid. It is obvious that the Education Officer who has passed the order 'X' has done so in a hurried manner only to create a picture before us that he has done something in a long pending matter. The law on granting approval to an appointment on compassionate basis, if other things are legally permissible, is laid down in **Smt. Yogita W/o Shivsing Nikam Vs. The State of Maharashtra and Ors¹**. It is an obligation on a management to appoint an eligible candidate on compassionate appointment on an available post. The relevant paragraph of the said judgment reads as under:

“9. A consistent view has been taken by the Supreme Court in matters of death of a permanent employee and the applicability of the policy of compassionate appointment. The Hon'ble Supreme Court has concluded that granting compassionate appointment is a humane act. A family which is rendered to the comforts of life, there being a bread earner in the family, is shaken up with the death of such a bread earner. This virtually throws the family into a financial crisis. The purpose for which compassionate appointment schemes have been introduced is laudable since it ensures that the family which has suddenly faced a tragedy and is in mental and financial distress, would be provided with succour. A model employer would ensure that such a family is not rendered to starvation

¹ WP No. 4219 of 2018 in the High Court of Bombay, Bench at Aurangabad
Gayatri Shimpi

and it's members are not required to beg for keeping their mind, body and soul together. At the same time, the Hon'ble Supreme Court has held that, with passage of a long duration of time, the family is no longer in financial stringency or distress and does not require any financial support, which would be a ground for declining compassionate appointment. There are cases before this Court as well as the Hon'ble Supreme Court, wherein candidates seeking compassionate appointment have approached after a passage of 10 years or 15 years and this Court has ruled that no purpose would be served in granting compassionate appointment in such cases.

22. *Having discussed the legal position, rather the crystallized position of law with regard to compassionate appointment, compassionate appointment is an exception to the rule of recruitment.”*

10. The Hon'ble Supreme Court has dealt with a similar issue in ***Canara Bank Versus Ajithkumar G.K²***. wherein, on the aspect of granting compassionate appointment to a widow, it has been held in paragraph no. 29 as under :

“29. The second sub-issue pertains to the real objective sought to be achieved by offering compassionate appointment. We have noticed the objectives of the scheme of 1993 and construe such objectives as salutary for deciding any claim for compassionate appointment. The underlying idea behind compassionate appointment in death-in-harness cases appears to be that the premature and unexpected passing away of the employee, who was the only bread earner for the family, leaves the family members in such penurious condition

that but for an appointment on compassionate ground, they may not survive. There cannot be a straitjacket formula applicable uniformly to all cases of employees dying-in-harness which would warrant appointment on compassionate grounds. Each case has its own peculiar features and is required to be dealt with bearing in mind the financial condition of the family. It is only in "hand-to-mouth" cases that a claim for compassionate appointment ought to be considered and granted, if at all other conditions are satisfied. Such "hand-to-mouth" cases would include cases where the family of the deceased is 'below poverty line' and struggling to pay basic expenses such as food, rent, utilities, etc., arising out of lack of any steady source of sustenance. This has to be distinguished from a mere fall in standard of life arising out of the death of the bread earner."

11. There is no embargo or impediment created under the rules or by the State Government, nor has any such rule been pointed out to us, that if the deceased was working on an unaided post, the candidate eligible for compassionate appointment should not be appointed on a grant-in-aid post, even if it is available, only because it is a grant-in-aid post. In the absence of any impediment or prohibition and when the management has a permanent vacant post of a Peon available and the Petitioner can be appointed as a Peon on such a post, it is immaterial that the said available post is grant-in-aid. We, therefore, do not find that the order 'X' could be sustained.

12. In view of the above, **this Petition is allowed.** The impugned order 'X' is quashed and set aside. The proposal dated 26/07/2019 is directed to be approved and the said Education Officer would grant approval to the Petitioner's appointment within 5 working days from today.

13. Before parting with this case, we find it necessary to deal with the disturbing feature in this Petition, which has been consistently nagging us. We have come across innumerable such matters wherein this Court must have passed hundreds of orders, directing either the Education Officers or the Deputy Directors of Education or any such Officer or even the authorities on higher positions, to deal with pending proposals at the earliest and pass orders. In several matters, the predecessor Bench of this Court has invoked Section 10 of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005. The issue before us is as to whether the High Court should turn a blind eye to the continued inaction on the part of statutory authorities who continuously fail in dealing with pending proposals, thereby compelling litigants to approach this Court only for seeking directions that the pending proposal be decided.

14. It is apparent before us and the learned AGP is instructed by the Education Officer Dr. Bhausaheb Karekar, who is present in the Court, to state that there was no cause for keeping the proposal of the present Petitioner pending from July, 2019. Initially, Mrs. Sunanda Wakhare kept it pending for 4 years. Now, Dr. Bhausaheb Karekar kept it pending for two years. Because the Petitioner filed this Petition and we passed an order on 6th October, 2025, i.e., yesterday, that Dr. Bhausaheb Karekar has hurriedly passed an order yesterday itself. What could not be done for two years by him and for 4 years by Mrs. Sunanda Wakhare, is done in few minutes yesterday. The irony is that an illegal and unsustainable order has been hurriedly passed.

15. In view of the above, we are directing the Principal Secretary, School Education Department, to invoke Section 10 of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 and strictly follow the procedure laid down in law, by calling upon Mrs. Sunanda Wakhare and Dr. Bhausaheb Karekar, as to why they have kept the proposal pending, in all, for more than 6 years. By adopting the appropriate procedure, the delay caused by the two officers be dealt with

in accordance with the sub-clauses set out in Section 10 of the 2005 Act. If the said Secretary is convinced that both these officers or either of them, is to be held responsible for keeping the proposal pending over a few years, he may pass a reasoned disciplinary order. If he finds that any of them is not guilty, he may conclude accordingly.

16. Let this exercise be completed on or before 31st December, 2025. The Principal Secretary of the said Department, shall tender a Compliance Report before this Court on 12th January, 2026. We shall then scrutinise the said action taken report and pass appropriate orders.

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)