

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.13406 OF 2024

Smt. Ranjana Mahesh Alhat
Age :-45 years, Date of Birth : 14.01.1979
Occu : Nil,
R/at : Talegaon Dhamdhere, Bazaar Maidan,
Taluka Shirur, Pune 412210.

...Petitioner

Versus

1. The Principal Secretary,
Revenue Department,
Mantralaya, Mumbai 400032.
2. The Deputy Director of Land Records,
1st Floor, New Administrative Building,
Room No.105, Oppo. Vidhan Bhavan, Pune 1
3. The Deputy Supreintendent of Land
Records, New Administrative Building,
Baramati Road, Indapur, Pune- 413106.

4. The District Collector, Collector Office,
Pune-1.

...Respondents

Ms. Vaishali Jagdale a/w Mr. Yash Jagdale, for the Petitioner.
Ms. Rupali Shinde, AGP, for the Respondent Nos.1 to 4-State.

CORAM : SUMAN SHYAM &
MANJUSHA DESHPANDE, JJ.

RESERVED ON : 16th OCTOBER 2025
PRONOUNCED ON : 19th NOVEMBER 2025

JUDGMENT :- (PER MANJUSHA DESHPANDE, J.)

1. The Petitioner is challenging the judgment and order dated 19.01.2024, passed by the learned Member, Maharashtra Administrative Tribunal (“MAT”), in OA No.1271 of 2023, alongwith the order dated 23.07.2024, in Review Application No.3 of 2024.

2. One Mahesh Alhat, the deceased Employee is survived by his wife Ranjana Alhat and two children aged 9 and 3 years respectively. Upon death of her husband, Ranjana Alhat, who is the Petitioner, has filed Application for appointment on compassionate ground on 20.12.2013. In response to her Application, she was informed, vide communication dated 08.01.2014, that the daughter of her husband, from his first marriage, has also filed claim for family pension and other benefits in capacity of his legal heir, therefore, she would be required to obtain ‘Heirship Certificate’ from the Competent Court.

3. Accordingly, she has filed Civil Miscellaneous Application No.1507 of 2017, before the Civil Judge, Senior Division, Pune, which was decided on 31.07.2019, declaring the Petitioner as well as Kum. Mrunali Mahesh Alhat and Kum. Sanjivini Mahesh Alhat as legal heirs of deceased Mahesh Alhat.

4. On receiving the legal ‘Heirship Certificate’ on 15.10.2019, the Petitioner had submitted it to the Respondent No.4 on 21.06.2021, by renewing her request to be considered for appointment on compassionate ground. Thereafter, she continued

to make representations to the Respondent No.2 on 02.07.2021 and to the Respondent No.4 on 28.06.2021, 29.06.2021 and 26.10.2021. Since she did not receive any response, she once again submitted representation on 11.11.2021, to the Respondent No.2. In the meanwhile, the other contesting legal heir has also given her 'no objection' for grant of compassionate appointment to the Petitioner.

5. The Petitioner was informed by the Respondent No.2 vide communication dated 05.07.2022 that, her name has been included in the waiting list for compassionate appointment of Group D Class IV post, and her name appears at Serial No.81 in the waiting list.

6. Realizing that the upper age limit for grant of appointment on compassionate ground is 45 years, and the Petitioner had already completed 43 years, she once again preferred a representation to the Respondent Nos.2 and 4 to consider her Application on priority basis. After last of such representations was made by the Petitioner addressed to the Respondent No.4 on 03.07.2023, she had approached the learned Maharashtra Administrative Tribunal (MAT), by filing OA No.1271 of 2023, with a prayer to appoint her on compassionate ground on Group D Post. Referring to the judgment of *Smt. Sushma Gosain & Ors. V/s. Union of India & Ors.*¹, she had requested to give her priority, since she was about to complete the age of 45 years.

1 (1989) 4 SCC 468

7. The Respondents filed their affidavit opposing the Original Application. The Application was opposed by the Authorities on the ground that there is a delay of 7 years and 9 months for making necessary compliance. As per the procedure prescribed in the Government Resolution, the name of the Petitioner has been included in the waiting list, which is at Serial No.81. Therefore, no precedence can be given on the ground that, the Applicant is crossing the upper age limit of 45 years. If such precedence is given, it would cause injustice to other candidates. The waiting list of the candidates has been exhausted up to Serial No.68, hence, the Petitioner will have to wait for her turn.

8. After hearing the parties, the learned Member, MAT, has dismissed the OA No. 1271 of 2023, filed by the Petitioner holding that, though it is undisputed that a compassionate appointment is to be given in order to mitigate the immediate financial distress caused to the family on account of sudden loss of the bread-earner of the family, however, considering the delay of 7 years and 9 months caused by the Applicant to make necessary compliances, she cannot be given out of turn precedence over all the other candidates in the waiting list, since it will create anomalous situation. Resultantly, the OA No.1271 of 2023 has been dismissed, vide order dated 19.01.2024.

9. The Petitioner, thereafter, filed Review Application No.3 of 2024, which was also dismissed by the learned Member, MAT, vide order dated 23.07.2024, holding that, the case of the Petitioner does not fall within the ambit and scope of the Order 47 Rule 1 of the CPC. Hence, the Review Application No.3 of 2024 has been

dismissed. Being aggrieved by the order passed by the learned Member, MAT, the Petitioner has approached this Court.

10. The learned Counsel, Ms. Vaishali Jagdale, appearing for the Petitioner, submits that the policy for granting compassionate appointments is intended to provide relief to the families of State Government Employees, who have died in harness, leaving behind dependents without any source of income for their survival. In the case of the Petitioner, her husband had expired on 30.08.2013, after serving the Respondents for 17 years, leaving behind children aged 9 and 3 years, respectively. The Petitioner alongwith the two children was totally dependent on the deceased husband. Therefore, she had immediately filed Application for compassionate appointment on 20.12.2013. Her Application has not been considered since she could not produce 'Heirship Certificate' immediately, as directed by the Respondent-Authorities. Eventually, she has secured Heirship Certificate on 15.10.2019.

11. According to the Petitioner, during the intervening period, she has faced continuous financial hardships. It is contended that, it is not the Petitioner's fault that in spite of her application, she could not obtain the 'Heirship Certificate' for more than 6 years. Hence, the order passed by the learned Member, MAT, refusing to entertain her Original Application, seeking directions to consider her application for appointment on compassionate grounds by giving her precedence, needs interference at the hands of this Court by issuing appropriate directions.

12. The learned Counsel for the Petitioner, apart from the policy decision of the Government, as set out in the GR dated 21.09.2017, relies on the decision of the Hon'ble Supreme Court in the case of ***Govinda Janardan Gaikwad V/s. State of Maharashtra & Ors.***², and judgment in the case of *Smt. Sushma Gosain & Ors.* (Supra) to contend that, in all the claims for appointment on compassionate grounds, there should not be any delay in appointments. While entertaining such Applications, appointments are required to be provided immediately, to redeem the family in distress. If no suitable post is available, a supernumerary post should be created to accommodate the Applicant.

13. The learned AGP for the Respondent-State has opposed the prayer of the Petitioner. It is the contention of the learned AGP that, the Petitioner should have been diligent in making necessary compliances for entertaining her Application. There is a delay of more than 6 to 7 years on the part of the Petitioner to make necessary compliances. In the meanwhile, the candidates who have submitted the appropriate Application, accompanied with necessary documents, have been considered and entered in the waiting list. When the Petitioner has submitted necessary documents, her name has been entered in the waiting list. The policy decision of the Government does not contemplate giving any precedence to the candidate, who is about to become ineligible, on account of attaining the upper age limit of 45 years. Therefore, the learned Member, MAT, has adopted a balanced view of the matter

2 Civil Appeal No.7489 of 2023 dated 06.11.2023

and refused to entertain the OA No.1271 of 2023, filed by the Petitioner, which does not deserve interference.

14. We have heard the respective parties and perused the documents on record. It is not disputed that Petitioner is a destitute woman, left to deal with the situation arising out of her husband's pre-mature death and is facing financial hardships after the untimely demise of her husband. She had filed Application for appointment on compassionate ground on 20.12.2013. In response to the same, she was informed to produce 'Heirship Certificate', vide communication dated 08.01.2014. A claim for family pension and other benefits was also filed by the other surviving heir of her deceased husband. Accordingly, she has filed an application for 'Heirship Certificate' vide Civil Application No.1507 of 2017, which was decided on 31.07.2019. The claim of other legal heir as regards family pension and other benefits is not disputed by the Petitioner. However, the question that arises is whether it was necessary in the given facts of the case to produce 'Heirship Certificate' by the Petitioner for considering her appointment on compassionate grounds?

15. The procedure for appointment on compassionate ground is governed by the policy decision as prescribed in the the GR dated 21.09.2017. The GR dated 21.09.2017 has been issued by consolidating all the earlier GRs and Circulars, by issuing a common policy decision covering all the issues pertaining to the appointment on compassionate grounds by superseding all the earlier Government Resolutions governing the field.

16. Upon perusal of the GR dated 21.09.2017, alongwith its annexure, it is evident that, Clause 3(2)(A) makes the Scheme applicable to the eligible family members of a Group C and D Employee working in the Government Department, who died in harness. The eligible candidates are enumerated in Clause 4 (A) of the of the Scheme. Clause 4 postulates that any one of the family members of the deceased Employee would be eligible to be appointed on compassionate grounds. The eligible family members are as follows :

(i) Husband/Wife

(ii) Son/Daughter (Married/Unmarried), Son/Daughter (Married/Unmarried) legally adopted before death of such Employee.

(iii) In case the Son of the Employee is pre-deceased or he is not eligible to be appointed, in such case, his Wife.

(iv) Divorced Daughter/Sister, destitute Daughter/Sister, widowed Daughter/Sister.

(v) Fully dependent Brother/Sister of the unmarried Government Employee.

17. From the above list of eligible candidates as provided in the GR dated 21.09.2017, it is evident that the Petitioner being the wife of the deceased Employee, was undisputably eligible to be appointed on compassionate grounds after death of her husband. Accordingly, she had also submitted her Application to the

Authorities on 20.12.2013, i.e., immediately after his death on 30.08.2013. The Petitioner had approached the Authorities within the time prescribed in the Scheme. Hence, there was no delay on the part of the Petitioner in submitting her Application.

18. Clause 10(A) of the GR dated 21.09.2017, provides that the Application for appointment on compassionate grounds by the eligible relative of the deceased has to be made within one year of the death of such Employee, to the Competent Authority in the prescribed format alongwith necessary documents. In the case of the Petitioner, she was the only eligible member from their family to make Application since her two children were aged 9 and 3 years respectively at the time of death of Mahesh Alhat. She has accordingly filed her Application on 20.12.2013. After filing the Application, she received communication from the Respondent No.3 informing her that, the Respondent No.3, who is the immediate Employer of her husband, has received a communication from one Lata Shivaji Jagtap, claiming that the first wife of deceased Mahesh Alhat had expired on 17.12.2000, who is survived by one daughter, namely, Mrunali Mahesh Alhat, who is the only surviving legal heir of the deceased Mahesh Alhat, hence, she is entitled for family pension and other benefits as his legal heir.

In view of the aforementioned communication, the Respondent-Authorities had called upon the Petitioner to produce Heirship Certificate from the Competent Court in order to prove that the Petitioner is the first and the legally wedded wife of Mahesh Alhat. Only after receipt of the 'Heirship Certificate', her

eligibility to receive family pension and other benefits would be considered. After informing her to produce the Heirship Certificate, her Application for compassionate appointment has been kept pending by the Authorities.

When she received the Heirship Certificate and produced it before the Authorities, her name came to be entered in the Waiting List maintained by the Respondent No.3, showing her name at Serial No.81 in the waiting list vide Communication dated 05.07.2022. In the meanwhile, the other legal heir, namely, Mrunali Mahesh Alhat has also given her 'no objection' to the Petitioner to be appointed in place of Mahesh Alhat on 23.05.2022.

19. We have perused the Scheme for appointment on compassionate ground as prescribed in the GR dated 21.09.2017 along with its annexures. Clause 4 of the GR dated 21.09.2017, provides for eligible family members. In the list of eligible family members, wife stands at Serial No.1. Therefore, there is no doubt that the Petitioner, who is the wife of the deceased Mahesh Alhat was eligible on the date of her application to be appointed on compassionate ground. It appears that the Authorities have also received claim of daughter of the deceased Mahesh Alhat from his pre-deceased first wife for the claim of family pension and other benefits. Applying the criteria to receive family pension and other benefits even for the appointment on compassionate ground, the Respondent-Authorities have insisted the Petitioner to produce Heirship Certificate from the Competent Court to the effect that she is the first wife and legal heir of deceased Mahesh Alhat. This according to us was not necessary since the first wife of the

deceased Mahesh Alhat had already expired on 17.12.2000, which can be seen from the communication of the Respondent No.3 itself. In view thereof, the Petitioner was the only surviving legally married wife of the deceased Mahesh Alhat. Therefore, it was not necessary for her to produce 'Heirship Certificate', at least for her appointment on compassionate grounds.

20. The Scheme for compassionate appointment nowhere contemplates any such Heirship Certificate to be produced while making appointment on compassionate grounds. The appointment on compassionate grounds is to be offered to the eligible family members of the deceased Employee, including wife/husband at Serial No.1 in the list of eligible candidates. It is only in the absence of eligible member at Serial No.1, that the other relatives can be considered. Since the Petitioner was the only surviving eligible relative, her candidature was required to be considered upon receipt of the Application. The insistence on that 'Heirship Certificate' would have been justified only if the other wife of Mahesh Alhat was still surviving and had filed her claim. In order to decide the competing claims of two wives, the 'Heirship Certificate' would have been justified. Moreover, the daughter through the first wife did not apply for compassionate appointment. Even if there was any such Application by her, the Authorities would be required to give priority to the claim by referring to Clause 4(A) of the Scheme and not by insisting on 'Heirship Certificate'.

21. The Authorities seem to have got confused and misdirected themselves by assuming that even for considering the Application

of the Petitioner on compassionate ground, the 'Heirship Certificate' is necessary to prove her claim. The Communication dated 08.01.2014, issued by the Respondent No.3, has created needless confusion resulting into delay in considering the Application of the Petitioner, for which she cannot be held responsible.

22. Merely because of the pending Application for family pension and other benefits by one of the legal heir of the husband, the Application of the Petitioner for appointment on compassionate ground has been kept pending for years together. Even though she had approached the Competent Court for issuance of 'Heirship Certificate', it came to be issued to her only on 15.10.2019. When the Certificate alongwith the Application was made by the Petitioner, it is only then her name has been entered in the Waiting List, which was informed to her vide Communication dated 05.07.2022. By then, she had already completed age of 43 years and was about to become ineligible to be appointed on completion of 45 years. She, therefore, approached the Authorities to appoint her before she crosses the upper age limit. She also approached the learned MAT with a prayer to appoint her by giving her precedence over the other candidates in the list. However, the request of the Petitioner came to be rejected by the learned Member, MAT, and even her Review Application has been dismissed.

23. Upon careful consideration of the facts and the documents placed on record, we are of the considered view that the Respondent No.3 has committed an error while dealing with the

case of the Petitioner. The Respondent No.3 has apparently mixed the issue of claim for family pension and other benefits with the, claim for appointment on compassionate ground. Both the claims should have been dealt with independently, by applying the relevant criteria. Though the Petitioner was the only eligible candidate in the family of the deceased Mahesh Alhat for being considered to be appointed on compassionate grounds, the Authorities without application of mind have insisted upon the production of the 'Heirship Certificate', which was not at all necessary. The Petitioner was the only legally wedded, wife surviving on the date of application since his first wife had already expired, which is also admitted by the Authorities. Therefore, there was no impediment to appoint her in accordance with the Scheme of compassionate appointment. However, due to an error on the part of the Authorities, while dealing with her Application, the Petitioner had to endure immense hardships for more than 10 years without their being any fault on her part. According to her averment in the Writ Petition, she still continuous to face grave financial hardships.

In other words, the delay in processing the Application of the Petitioner for her appointment on compassionate grounds was not attributable to the Petitioner, but to the Authorities by keeping her Application pending for a considerable period, without any valid reason. Therefore, denying the benefit of compassionate appointment to the Petitioner on the ground of delay, in our view, would amount to depriving her of her legitimate expectation and would, therefore, be in violation of Article 14 of the Constitution of India.

24. The case of the Petitioner exemplifies the lackadaisical approach of the Government Authorities, which has resulted in the deprivation of the Petitioner's legitimate claim, causing grave injustice that requires to be redressed by this Court. Though it is settled position that, right to be appointed on compassionate grounds is neither a constitutional nor a statutory right, but only a measure for relief in cases of financial hardships which has arisen due to untimely demise of the earning member of the family. Yet, in this case, we find that the Authorities have wrongly insisted on the production of Heirship Certificate, which was unnecessary and has consumed years together resultantly making her ineligible due to crossing of upper age limit. A consistent view has been taken by the Courts that the claim of compassionate appointment is to be strictly, considered within the framework of the policy decision, without relaxing any conditions, since the Scheme is an exception to the usual recruitment process. However, the Authorities dealing with such Applications need to adopt a sensitive and human approach while dealing with such Application, keeping in mind the laudable object sought to be achieved by the Scheme. A rigid and insensitive approach, results in deprivation of even legitimate claims, like in the present case.

25. The consistent communications made by the Petitioner to the Authorities pursuing her claim indicate that she was and still is in dire need of the employment even today. If her claim was entertained when she submitted her Application for the first time on 20.12.2013, she would have been appointed by now. We are aware that we cannot turn the clock back. However, the least that can be done is to direct the Respondents to consider the case of the

Petitioner for appointment on compassionate grounds on the first vacancy that would arise after passing of this order by condoning her upper age, provided the Petitioner fulfills the other eligibility conditions as provided in the GR dated 21.09.2017.

26. In view of the above observations, the judgment and order dated 19.01.2024, passed by the learned Member, Maharashtra Administrative Tribunal (“MAT”), in OA No.1271 of 2023, alongwith the order dated 23.07.2024, in Review Application No.3 of 2024 are quashed and set aside. The Respondent-Authorities are directed to consider the case of the Petitioner for compassionate appointment on the first available vacancy in the light of the observations made here-in-before. The exercise be carried out and completed within a period of 3 months from today.

27. **The Writ Petition is allowed and disposed of with the above directions.**

(MANJUSHA DESHPANDE, J.)

(SUMAN SHYAM, J.)