



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 4894 OF 2024

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| <p>1) Smt.Hemlata Chandrabhushan Salame
Age @ 50 years, Occ – Housewife
R/o. Sundar Nagar, Brahmapuri,
Tq.Brahmpuri, Dist. Chandrapur</p> <p>2) Raj Chandrabhushan Salame
Age @ 25 years, Occ – Labour,
R/o. Sundar Nagar, Brahmapuri,
Tq.Brahmpuri, Dist. Chandrapur</p> | } | .. Petitioners |
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Versus

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| <p>1) The State of Maharashtra,
Through its Secretary for Rural
Development Department, Mantralaya,
Mumbai</p> <p>2) The State of Maharashtra, Through its
General Administrative Department,
Mantralaya, Mumbai</p> <p>3) The Zilla Parishad, Chandrapur,
Through its Chief Executive Officer,
Chandrapur, Dist. Chandrapur</p> <p>4) The Deputy Chief Executive Officer,
Zilla Parishad, Chandrapur,
Dist. Chandrapur</p> | } | .. Respondents |
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Mr. S.M. Vaishnav, Advocate for Petitioner.

Mr. P.P.Pendke, Assistant Government Pleader for respondent Nos.
1 & 2.

Mr. S.V.Sohoni, Advocate for respondent No.3.

**CORAM : AVINASH G. GHAROTE AND
ABHAY J. MANTRI, JJ.**

DATED : JANUARY 29, 2025

ORAL JUDGMENT (Per : Abhay J. Mantri, J.)

Rule. Rule is made returnable forthwith. Heard finally, with the consent of the learned Counsel, appearing for the parties.

(2) The petitioners are challenging the issuance of communications dated 29/03/2023 and 03/05/2023 issued by respondent No.4, which held that petitioner No.2 is not entitled to the compassionate appointment and disqualified him as per the provisions of Government Resolution (G.R.) dated 28/03/2001, as a third child was born after 31/12/2001.

(3) Learned Counsel for the petitioners vehemently submitted that a co-ordinate Bench of this Court has considered the effects of the deemed date in clause (E) of G.R. dated 28/03/2001 in Writ Petition No.2349/2023 and held that "*date in clause (E) of the G.R. dated 28/03/2001 be construed as 28.03.2002, i.e. one year from the issuance of the said G.R.*" He further submitted that in view of the judgment above, the petitioners are entitled to the relief as prayed, as on 11/03/2002 the third child was born to the petitioner No.1 and her deceased husband i.e. employee of the respondent before the date 28.03.2002 as construed in the decision. Therefore, he urged for allowing the petition.

(4) In response, learned Assistant Government Pleader Mr. Pendke, appearing for respondents Nos.1 and 2 and learned Counsel Mr. Sohoni, appearing for respondent No.3, resisted the claim of the petitioners on the ground that the petitioners' claim was rejected as the third child was born to the deceased employee after issuance of G.R. dated 28/03/2001. Likewise, other factors have to be considered when deciding the petitioners' claim. Therefore, they urged for the dismissal of the petition.

(5) We have appreciated the rival contentions of the learned counsel and perused the record, G.R. dated 28/03/2001, and the judgment dated 01/07/2024 in Writ Petition No.2349/2023.

(6) At the outset, it reveals that this Court, while considering clause (E) in the said G.R., has held that "*date in clause (E) of the G.R. dated 28/03/2001 be construed as 28.03.2002, i.e. one year from the issuance of the said G.R.*" Similarly, it is undisputed that on 11/03/2002 the third child was born to the petitioner No.1 and deceased employee, i.e. before the date 28/03/2002 as construed in the decision referred above, therefore, the date as interpreted in the decision above, the petitioner No.2 cannot be held to be disentitled to claim the relief as prayed.

(7) We have also gone through the impugned communications dated 29/03/2023 and 03/05/2023; it seems that the claim of the petitioners has been rejected solely on the ground that the third child was born to the deceased employee after the issuance of the G.R. dated 28/03/2001. Therefore, petitioner No.2 was held ineligible for granting an appointment on compassionate grounds. However, in view of the law laid down in ***Amol Hiralal Telrandhe vs. The State of Maharashtra and others*** (Writ Petition No.2349/2023 decided on 01/07/2024), we are of the opinion that the third child was born to petitioner No.1 and deceased employee prior to the date construed by this Court in the said judgment. Therefore, the petitioners are entitled to claim the appointment of petitioner No.2 on compassionate grounds. Thus, the impugned communications dated 29/03/2003 and 03/05/2003 issued by respondent No.4 are liable to be held contrary to what has been held in Writ Petition No.2349/2023 and, therefore, cannot be sustained in the eyes of the law, and the same is liable to be set aside.

(8) In the background above, we deem it appropriate to pass the following order.:-

- (i) The impugned communications dated 29/03/2023 and 03/05/2023 issued by respondent No.4 are hereby quashed and set aside.

- (ii) We direct respondent Nos.3 and 4 to issue an appointment order to petitioner No.2 if there is no impediment to doing so in light of the policy applicable in that regard.
- (iii) The Rule is made absolute in the above terms. No costs.

[ABHAY J. MANTRI, J.]

[AVINASH G. GHAROTE, J.]

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