



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 14568 OF 2025

Vishal Kisan Jadhav

VERSUS

The State of Maharashtra through its Secretary and others

Mr. P. B. Patil (Borse), Advocate for petitioner

Mr. V. M. Kagne, AGP for respondent-State

**CORAM : Smt. Vibha Kankanwadi &
Hiten S. Venegavkar, JJ.**

DATE : 17th January, 2026

ORDER (PER : Hiten S. Venegavkar) :-

1. The present writ petition is instituted under Article 226 of the Constitution of India, seeking issuance of a Writ of Certiorari to quash and set aside the communication dated 18.12.2024, issued by the Chief Officer, Municipal Council, Amalner, Dist. Jalgaon, whereby the claim of the petitioner for appointment on compassionate ground has been rejected. The petitioner further seeks a writ of mandamus directing the respondents to appoint him on the post of "Assistant Teacher" on compassionate ground in the secondary school run and managed by the Municipal Council, or in the alternative, to appoint him as Shikshan Sevak for the initial period of three years. Ancillary prayers are made seeking compensation for allegedly inaction on the petitioner's application since the year 2005, and for inclusion of the petitioner's

name in the waiting list with retrospective seniority from 31.07.2007.

2. The factual matrix is largely undisputed. The petitioner's father, late Kishan Jadhav, was appointed as an Assistant Teacher in the year 1983 in a fully aided secondary school run by the Municipal Council, Amalner. His employment was permanent in nature and governed by the applicable service rules. He expired in harness due to heart disease in the year 2005, leaving behind his widow and three sons, including the present petitioner, who was the youngest and was then aged about 18 years and pursuing higher secondary education. Immediately after the death of employee, the elder brother of the petitioner submitted an application dated 11.02.2005, seeking appointment on compassionate ground. The application was neither pursued to its logical end nor decided by the authorities. Subsequently, the elder brother secured employment in another institution in the year 2006, and started residing separately.

3. The petitioner thereafter submitted his own application dated 31.07.2007, followed by another application dated 29.10.2007, after obtaining consent from his mother and siblings. He also approached the Education Officer and the Deputy Director of Education. By communication dated 28.12.2007, the Education Officer called upon the Municipal Council to initiate action in accordance with Government

Resolution dated 25.11.2005 and 10.04.2007, governing compassionate appointments. Despite this, no appointment was granted on the ground of an alleged ban on recruitment. Ultimately, by order dated 19.07.2011, the petitioner's claim came to be rejected on the ground that no vacant post was available and the family was not found to be in financial distress. This rejection order was never challenged by the petitioner before any forum.

4. The petitioner continued to submit representations from time to time. Reliance is placed on a resolution of the Municipal Council dated 16.02.2016, wherein it was resolved that one post of Assistant Teacher had fallen vacant and that the petitioner possessed the requisite qualifications, and that a proposal be forwarded to the Education Officer. However, no appointment followed. Eventually, by the impugned communication dated 18.12.2024, the Municipal Council rejected the claim once again, holding that the application was not made within stipulated time as per the Government Resolution dated 31.12.2002, and that the claim had already been rejected in the year 2011.

5. The learned AGP appearing for the State opposed the petitioner by submitting that compassionate appointment is not a vested right and is governed strictly by policy. It was contended that the application was grossly delayed, that the financial condition of the family

as on the relevant date did not warrant compassionate appointment, that the petitioner was gainfully employed for several years, and that the rejection order dated 19.07.2011, having attained finality, the present challenge was barred by delay and latches.

6. Having considered the rival submissions and perused the record, we find no merits in the petition. Appointments on compassionate ground in Municipal Councils in the state of Maharashtra are governed by the Government Resolution dated 31.12.2002, as amended by subsequent resolutions dated 25.11.2005 and 10.04.2007. These resolutions clearly stipulate that an application for compassionate appointment must ordinarily be made within 90 days from the date of death of the employee, and in any case, not later than one year. The scheme is intended to provide immediate succour to the family of a deceased employee who is suddenly deprived of its sole breadwinner and is facing financial needs. It is not a scheme for providing employment as a matter of course or as a matter of deferred benefits.

7. The law on the subject is well settled. In **Umesh Kumar Nagpal vs State of Haryana**, 1994 (4) SCC 138, the Hon'ble Supreme Court authoritatively held that compassionate appointment is an exception to the general rule of public employment and is intended only to meet the immediate financial crisis of the family. It was categorically

observed that such appointment cannot be claimed after the crisis is over, nor it can be treated as a wasted or hereditary right. This principle has consistently reiterated in **State of Himachal Pradesh vs Shashi Kumar**, 2019 (3) SCC 653, wherein the Hon'ble Supreme Court held that delay defeats the very purpose of compassionate appointment, and the stale claims cannot be entertained.

8. In the present case, the petitioner admittedly applied for compassionate appointment for the first time in July 2007, nearly two years after the death of his father. Even assuming that the earlier application by elder brother could be considered within time, there is no material to demonstrate that the petitioner's application was a valid substitution of that claim. The elder brother neither formally withdrew his application nor nominated the petitioner in accordance with the policy. Mere abandonment of a claim does not automatically revive or transfer eligibility to another dependent after the lapse of prescribed period.

9. More importantly, the petitioner's claim was expressly rejected by a reasoned order dated 19.07.2011. The order was never challenged and has attained finality. It is a settled principle of law that once an order rejecting compassionate appointment is not challenged within a reasonable time, repeated representations do not give rise to a fresh cause of action. The Hon'ble Supreme Court in **C. Jacob vs.**

Director of Geology and Mining, 2008 (10) SCC 115, held that stale claims cannot be revived by making repeated representations and that Courts should not direct reconsideration of such claims after long delays. The same principle was reiterated in **Union of India vs MK Sarkar**, 2010 (2) SCC 59.

10. The petitioner's contention that vacant posts were available at various points of time also does not advance his case. Availability of a vacancy by itself does not confer a right to compassionate appointment unless all policy conditions are satisfied within the prescribed time frame. Compassionate appointment cannot be converted into a mode of regular recruitment. Furthermore, it has come on record that the petitioner has been working as an Assistant Teacher on an honorarium basis for several years. This clearly indicates that the family has survived the alleged financial crisis long ago. The Hon'ble Supreme Court in **State of Maharashtra vs Madhuri Maruti Vidhate**, 2022 SCC OnLine SC 1327, has held that gainful employment of the claimant is a relevant factor and negates the claim of continuing financial distress.

11. The object of compassionate appointment is immediate. Entertaining a claim after 15 to 19 years from the date of death of the employee would amount to defeating the very purpose of the scheme and would open floodgates for stale and speculative claims. The writ

jurisdiction of this Court cannot be invoked to unsettle matters that have attained finality long ago, particularly when no explanation worth acceptance is offered for such inordinate delay.

12. We therefore find that the impugned communication dated 18.12.2024, does not suffer from any illegality, arbitrariness or perversity warranting interference under Article 226 of the Constitution of India. The petition is barred by delay and laches, the claim stands concluded by the rejection order dated 19.07.2011, and the petitioner has failed to establish any subsisting financial exigency as required under the compassionate appointment policy.

13. Accordingly, the writ petition stands dismissed. There shall be no orders as to cost.

(Hiten S. Venegavkar, J.)

(Smt. Vibha Kankanwadi, J.)

B. S. Joshi