



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

WRIT PETITION NO. 6592/2024

Gajanan Ramrao Wankhede,
Aged 48 years, Occ. Nil,
R/o. Rohana, Tah. Narkhed,
Rohana, Nagpur, Maharashtra
441305

.....PETITIONER(S)

// VERSUS //

(1) State of Maharashtra,
Through its Secretary, Rural
Development Department,
Mantralaya, Mumbai

(2) Chief Executive Officer,
Zilla Parishad, Amravati, Camp
Road, Maltekdi, Amravati,
Maharashtra 444603

(3) Education Officer,
Panchayat Samiti, Warud, MH
MSH 10, Near P.W.D. Guest
House, Shaniwar Peth, Warud,
Amravati, Maharashtra 444906

.....RESPONDENT(S)

.....
Shri H.V. Thakur, Advocate for the Petitioner(s)
Shri H.D. Futane, AGP for the Respondent/State
Shri M.A. Sable, Advocate for the Respondent Nos. 2 & 3
.....

CORAM : M.S. JAWALKAR & NANDESH S. DESHPANDE, JJ.
MARCH 04, 2026

ORAL JUDGMENT :- (PER:- M.S. JAWALKAR, J.)

. **RULE. Rule made returnable forthwith.** Heard finally by consent of learned Counsel for the respective parties.

(2) By this Petition, the Petitioner is seeking to quash and set aside the impugned communication dated 08/07/2021 issued by the Respondent No. 2 – Chief Executive Officer, Zilla Parishad, Amravati refusing to grant appointment to the Petitioner on compassionate ground.

(3) The father of the Petitioner, who worked as a Teacher in Panchayat Samiti, Warud, District Amravati, went missing on 11/07/1978. All efforts were made to trace out the father of the Petitioner. On 02/11/1994, the mother of the Petitioner made an application to the Respondent No. 3 – Education Officer, Panchayat Samiti, Warud to consider the name of the Petitioner (son of the missing employee) for employment on compassionate ground. On 04/07/1995, the Petitioner, on attaining the age of majority, made an application

to the Respondent No. 2 – Chief Executive Officer, Zilla Parishad, Amravati to include his name in the list of the candidates for the appointment on compassionate ground.

(4) It is the contention of the Petitioner that the Respondents asked for declaration by the Competent Court about the civil death of the missing father. It appears that the Application was under consideration continuously. On 10/03/2010, the Deputy Chief Executive Officer, Zilla Parishad, Amravati sent a letter to the Block Development Officer, Panchayat Samiti, Warud (Annexure-P10) asking for the details about the members in the family of Ramrao Wankhede (father of the Petitioner). Therefore, the Petitioner filed a suit for declaration of civil death before the 3rd Joint Civil Judge Junior Division, Warud and the said Court passed its order on 20/12/2017. It appears that on 30/12/2019, the Chief Executive Officer, Zilla Parishad, Amravati forwarded the proposal for condonation of delay in filing the Application for appointment on compassionate ground to the Divisional Commissioner, Amravati Division, Amravati. On 05/01/2021, the Assistant Chief Executive Officer, Zilla Parishad, Amravati sent a letter to the Petitioner asking to submit the documents as per the list in

the said letter. Accordingly, the documents said were submitted to the Block Education Officer, who in turn, submitted the same to the Deputy Chief Executive Officer, Zilla Parishad, Amravati, vide its communication dated 17/06/2021. It appears that the Chief Executive Officer, Zilla Parishad, Amravati turned down the proposal on the ground that the Petitioner has crossed the age limit of 45 years.

(5) Learned Counsel for the Respondents vehemently opposed the Petition and submitted that there was delay and laches on the part of the Petitioner, however, considering the communications and consideration of the claim of the Petitioner, we do not see any delay and laches on the part of the Petitioner.

(6) Learned Counsel for the Petitioner, in support of his contentions, relied on the judgment dated 21/12/2023 passed by this Court at Aurangabad Bench in **Writ Petition No. 12897/2023 (Latikabai Uttam Mahajan vs. The State of Maharashtra & others)**. In the said judgment, this Court held as under:-

“7. The learned Advocate for the Petitioner has drawn our attention to the updated ‘Scheme for Compassionate Appointment Under Central Government’, dated 02/08/2022. The same is admittedly adopted by the State of Maharashtra. The exemptions in the Scheme are provided at Clause 7(A) and relaxations are provided at Clause 7(B), which read as under :-

“7A. EXEMPTIONS

7B. RELAXATIONS

(a) Upper age limit could be relaxed wherever found to be necessary. The lower age limit should, however, in no case be relaxed below 18 years of age.

Note I Age eligibility shall be determined with reference to the date of application and not the date of appointment;

Note II Authority competent to take a final decision for making compassionate appointment in a case shall be competent to grant relaxation of upper age limit also for making such appointment.

8. In Sub-clause (a) below Clause (B), it is prescribed that the upper age limit can be relaxed wherever found to be necessary though the lower age limit of 18 years cannot be relaxed. There is no dispute that the upper limit is 45 years. Note (I) there-below indicates that, age eligibility shall be determined with reference to the date of application and not the date of appointment. Note (II) thereunder permits the Authority

Competent to take a final decision for making compassionate appointments by granting relaxation to the upper age limit.

9. *The learned Advocate for the Corporation relies on Clause 11 (aa) of the Government Resolution dated 21/09/2017, introduced by the State of Maharashtra, to contend that the moment the age of an enlisted candidate crosses 45 years, the name of a candidate is instantaneously deleted from the list.*

10. *The learned Advocate for the Petitioner submits that this clause runs counter to Clause 7(B) (a) Note (I) and (II) of the Scheme for Compassionate Appointment under Central Government, updated on 02/08/2022 by the Ministry of Personnel, Public Grievances and Pensions.*

11. *There is a direct challenge to Clause (aa) below Clause 11 of the Government Resolution dated 21/09/2017. This issue has a great significance. The learned Advocate for the Corporation has addressed us that this Clause would be a strict impediment to the case of the Petitioner. The said Clause has been specifically challenged by the Petitioner vide prayer clause (B) and foundational pleadings in support thereof, have been set out in the Petition memo.*

12. *The golden Rule of interpretation of law and Statutes is that the interpretation should not lead to rendering one provision redundant or otiose. If a harmonious interpretation is to be drawn, the provision under the Central Government Scheme, which has been adopted by the State of Maharashtra,*

will have to be given weightage, more so, in the light of the recent order passed by the Hon'ble Supreme Court, dated 06/11/2023, in Civil Appeal No. 7489/2023, Govinda Janardan Gaikwad VS. State of Maharashtra and others, wherein it has been held that the concept of welfare State would restrain a Respondent from raising a contention that, by passage of time, the candidate would not be entitled for making a claim. In the instance case before us, the Petitioner is 49 year of age. She is receiving pension of Rs.8300/- per month.

14. *Considering the above legal position, since the Central Government Scheme has been adopted by the State of Maharashtra, and as clause 11(aa) clearly runs counter to clause 7(B), we conclude that Clause 11 (aa) under Annexure 'A' of the Government Resolution dated 21/09/2017, would not be applicable to cases wherein the candidate has applied for compassionate appointment within limitation and was eligible when the application was tendered. Subsequently, if such candidate crosses 45 years of age only because of the pendency of the application or awaiting a vacancy, his/her name cannot be automatically deleted from the list in which he/she has been included. We are fortified in our above conclusion by Clause 7(B) (a) Note (I) and (II), read with the order of the Hon'ble Supreme Court in Govinda Janardan Gaikwad (supra).*

15. *In view of the above, this Writ Petition is partly allowed. We direct the Municipal Corporation to take a decision on the claim of the Petitioner, who is already enlisted in the light of her application dated 30/11/2012, in view of the*

directions issued by the Hon'ble Supreme Court in Govinda Janardan Gaikwad (supra). Necessary action shall be taken by the Corporation within a period of 3 months from today."

(7) In view of the above judgment, the Authority can relax the upper age limit and the age eligibility shall be determined with reference to the date of application and not the date of appointment. The reason for rejection of application that the Petitioner crossed the age limit of 45 years is not sustainable specifically when the age relaxation clause is there. In view thereof, we are of the considered opinion that the impugned communication dated 08/07/2021 issued by the Respondent No. 2 – Chief Executive Officer, Zilla Parishad, Amravati is liable to be quashed and set aside.

(8) Hence, we proceed to pass the following order:-

ORDER

- (a) The Writ Petition is **partly allowed**.
- (b) The impugned communication dated 08/07/2021 issued by the Respondent No. 2 – Chief Executive Officer, Zilla Parishad, Amravati is hereby quashed and set aside.

- (c) The Respondent Nos. 2 and 3 are hereby directed to consider the claim of the Petitioner afresh, in view of the judgment passed by this Court in **Latika Mahajan (supra)**, within a period of four weeks from the date of production of copy of this judgment.
- (d) The Petitioner shall appear before the Respondent No. 2 – Chief Executive Officer, Zilla Parishad, Amravati on 16/03/2026 along with copy of this judgment and recent application.

Rule is made absolute in the above terms. Pending Application(s), if any, stand(s) **disposed of**.

(NANDESH S. DESHPANDE, J.)

(M.S. JAWALKAR, J.)