



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 4138 OF 2025

1. Smt. Sarika wd/o Mahesh Mhaske,
aged about 45 years, Occup-Household,
2. Atharva s/o Mahesh Mhaske,
aged about 18 years, Occup-Education,

Both R/o. Shivan (Bk), Post – Bembla,
Tq. Karanja, Dist. Washim

...PETITIONERS

VERSUS

1. State of Maharashtra through its
Principal Secretary, School Education &
Sport Department, Mantralaya,
Mumbai-32
2. The Education Officer (Secondary),
Zilla Parishad Akola,
Tq. & Distt. Akola
3. The President,
Shri. Sant Dnyaneshwar Bahuddeshiya
Mandal, Dhaba, Tq. Barshitakli,
Dist. Akola
4. The Headmaster,
Shri. Siddheshwar Vidyalaya, Hatola,
Tq. Barshitakli, Dist. Akola

...RESPONDENTS

Shri G.R. Sardar, Advocate for petitioners
Shri N.R. Patil, AGP for respondent Nos. 1,& 2/State
Shri O.Y. Kashid, Advocate for respondent Nos. 3 & 4

CORAM : **SMT. M.S. JAWALKAR AND**
DATE : **NANDESH S. DESHPANDE, JJ.**
09.02.2026

ORAL JUDGMENT (PER : NANDESH S. DESHPANDE, JJ.)

Heard.

2. Rule. Rule is made returnable forthwith.
3. Heard finally by the consent of the parties.
4. The present petition seeks a direction to the respondent and more particularly respondent Nos. 3 and 4 to take cognizance of the application dated 09.09.2024 submitted by the petitioner No.2 for getting compassionate appointment in the respondent No.4, School, in light of the death of his father, namely, Mahesh Shankarrao Mhaske on 09.04.2023. It further prays for a direction for finalization and submission of pension case of the said deceased employee.

5. The facts which emerge from the said petition are as under :

On 26.06.2000, one Mr. Mahesh Shankarrao Mhaske was appointed as a Junior Clerk, and on 27.04.2023, he unfortunately expired in an accident. On 09.09.2024, the petitioner No.2, being qualified, applied for the compassionate appointment in the respondent No.4, School, and the petitioner No.1, being widow of the deceased employee, submitted her consent letter. However, even after waiting for a considerable time, the petitioners did not receive any information. This constrained them to file a rejoinder/reminder on 18.12.2024. In the interregnum period, they visited the office of respondent Nos. 1, 2 and 3 to put forth their grievances by submitting reminders and a request letter to that effect. On 03.03.2025, the Deputy Director of Education issued a common order, thereby directing the respondent Nos. 3 and 4 to take necessary action in respect of grievances of the petitioner.

6. It is the contention of the learned Counsel for the petitioner that the Government policy regarding compassionate appointment is spelt out in the Government Resolution dated 31.12.2002. It is his contention that the application/request for compassionate appointment has neither been dealt with by the respondent Nos. 3

and 4, nor there has been any express rejection in that regard. He therefore prays for direction to respondent Nos. 3 and 4 to consider the said application in light of the Government Policy spelt out above.

7. It is also canvassed by the learned Counsel for the petitioner that even though the pension case of the deceased employee is to be processed and sent to the concerned respondents, the same is not sent.

8. Per contra, Shri Kashid, learned Counsel for the respondent Nos. 3 and 4, by taking us through the reply filed by the said respondents, states that the petitioners have received a very handsome amount from various entitlements of the deceased respondent. He further submits that the petitioner has an irrigated land of about 9.5 acres, and they derive a considerable income from that. It is therefore his submission that it can not be said that the petitioners are living in harness, and there is no scope for providing any immediate succor to the family, which, according to him, is the aim of compassionate appointment.

9. We are hardly impressed by the contentions advanced by the learned Counsel for the respondents. If the contention of the learned Counsel for the respondents is accepted, and if the analogy is to be tested on the touchstone of anvil of law, there would not be a compassionate appointment only because the petitioners have some agricultural immovable property and they have received some retirement-cum-death benefit from the death of the deceased employee. It cannot be a reason if the petitioners are otherwise eligible in terms of the policy spelt out in the said Government Resolution referred supra. It would be therefore in the interest of justice that the application of the petitioners for seeking compassionate appointment is directed to be decided by the respondent Nos.3 and 4 in light of the Government Resolution dated 31.12.2002. It would also be expedient to direct the respondents to finalize and submit the pension papers of the deceased employee.

10. In that view of the matter, we pass the following order :

ORDER

The Writ Petition is allowed in the following terms :

i) The respondent Nos. 3 and 4 are directed to consider the application of the petitioner submitted on 09.09.2024, seeking compassionate appointment.

ii) It is also directed that the respondents to send the family pension proposal of the petitioner No.1 to the respondent No.2 within four weeks from today.

iii) Needless to mention that the claim for family pension of the petitioner No.1 would be forwarded only when she is otherwise entitled for the family pension in accordance with the Rules.

11. The petition is disposed of as such.

12. Rule accordingly. No order as to costs.

(NANDESH S. DESHPANDE, J.)

(SMT. M.S. JAWALKAR, J.)

Jayashree..