



**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO. 6626 OF 2019

(Arising out of SLP (Civil) No. 3500 of 2015)

Yogesh Nagraoji Ugale

...Appellant

versus

State of Maharashtra through
Principal Secretary & Ors.

...Respondent

J U D G M E N T

INDU MALHOTRA, J.

Leave granted.

1. The present Civil Appeal has been filed to challenge the final Judgment and Order dated 19.11.2014 passed in W.P. No. 3520 of 2014 by the Nagpur Bench of the Bombay High Court, whereby the Writ Petition was dismissed.
2. The background facts briefly stated are as under:
 - 2.1. The father of the Appellant – Late Shri Nagraoji Ugale was working as a Peon (Class IV) with the School run by the Nagpur Pradesh Education Society. While he was in service, the father of the Appellant suddenly expired of a heart

attack on 13.10.2012. Since the father of the Appellant was the only breadwinner in the family, the Appellant filed an Application for Compassionate appointment on 29.10.2012. This was followed up by further letters on 30.10.2012 and 31.10.2012.

2.2. Respondent No. 2 – the Education Officer *vide* letter dated 06.05.2013 called upon the Appellant for a hearing on 17.05.2013 to consider the application for appointment on Compassionate Grounds. Respondent Nos. 3 and 4 remained absent from the hearing on 17.05.2013, which was re-scheduled for 31.05.2013.

The Respondent No. 2 – the Education Officer *vide* Order dated 31.05.2013 recorded that the President of the Society was ready to grant compassionate appointment to the Appellant, if the Education Officer grants the permission. The Education Officer recorded that the Appellant possessed the educational qualification of S.S.C. and had passed the computer examination MS-CIT. Furthermore, there were two Schools being run by the Nagpur Pradesh Education Society, and each of the Schools had one post of Junior Clerk vacant. The Education Officer

directed that the proposal for approval be submitted to his office within one month.

2.3. In response, Respondent No. 3 issued a communication dated 13.07.2013 to the Education Officer stating that a Government Resolution dated 22.03.2012 contemplates a ban on recruitment on non-teaching employees on compassionate ground, which was relaxed in respect of the wait-list candidates prior to 31.12.2011.

2.4. The Government of Maharashtra *vide* Resolution dated 22.03.2012 bearing No. PDN-2012/Pra. Kra. 15/12 Financial Development-1, continued the ban imposed on 22.08.2005 for recruitment of posts in 'Group C and Group D' cadres in Government Departments/Offices and Government Aided Institutions with a view to control the administrative expenditure on the Recommendations of the 6th Pay Commission. The Recruitment ban on candidates in the compassionate list after 22.08.2005 was continued.

The Government *vide* Resolution dated 22.03.2012 relaxed the ban for candidates in the waiting list of appointments on compassionate ground till 31.12.2011.

2.5. The Government of Maharashtra *vide* Resolution dated 01.03.2014 bearing No. AKP-1014/Pra. Kra. 34/8 revised its

decision dated 22.08.2005 which had restricted recruitment to 5% in Group 'C' and 'D' on the basis of compassionate appointment, and increased the limit to 10% of posts.

2.6. Since the representations of the Appellant were not granted, W.P. No. 3520 of 2014 was filed by the Appellant before the High Court, praying *inter alia* for the issuance of a direction to Respondent Nos. 3 and 4 to appoint the Appellant on compassionate grounds.

2.7. The High Court *vide* final Judgment and Order dated 19.11.2014 held that the relief sought by the Appellant cannot be granted. The Appellant could not be appointed on compassionate grounds since the family of the Appellant had received monetary benefits of Rs. 7,50,000/- towards the statutory dues of the deceased i.e. Provident Fund, Gratuity and Leave Encashment. It was also held that the mother of the Appellant was receiving a monthly pension of Rs. 11,030/-. The High Court dismissed the Writ Petition filed by the Appellant.

3. Aggrieved by the aforesaid Judgment of the High Court, the Appellant has filed the present Special Leave Petition before

this Court. This Court issued Notice to the Respondents *vide* Order dated 12.02.2015.

4. Learned Counsel for the Appellants *inter alia* submitted that the Appellant is qualified and eligible to be appointed to the post of Peon (Class IV). There is a vacancy for the post of Peon (Class IV) in the two Schools run by Respondent Nos. 3 and 4. The Appellant and his family are facing a serious financial crisis due to the death of his father. The grant of monetary benefits on the death of his father towards provident fund, gratuity and leave encashment cannot be a ground for denial of appointment on compassionate grounds.

5. Learned Counsel for Respondent Nos. 3 and 4 *inter alia* submitted that there are two Schools run by Respondent Nos. 3 and 4. Prior to the session commencing 2013-14, there were 9 Class IV posts available in both the schools. Out of the said 9 posts, 7 posts were already filled up. Respondent Nos. 3 and 4 did not get permission from the Education Department to fill up the remaining two posts. The family of the Appellant had received a sum of Rs. 7,53,243 towards monetary benefits at the time of death of the Appellant's father.

Apart from the monetary benefits, the mother of the Appellant has been receiving Rs. 11,020 towards monthly pension. The Appellant cannot claim compassionate appointment as a matter of right.

6. We have heard the learned Counsel for the parties, and have perused the material on record.

6.1. In the present case, the Appellant admittedly possesses the educational qualifications for the post of Peon. The Appellant has an S.S.C. Degree along with MS. C.I.T.

6.2. Even though Respondent Nos. 3 and 4 contended that there is a ban since 2005 for appointment on compassionate grounds, a relaxation was initially granted for persons on the wait list till 31.12.2011.

Thereafter, *vide* Government Resolution dated 01.03.2014 bearing No. AKP-1014/Pra. Kra. 34/8 the Government of Maharashtra decided to increase the recruitment of 'Group C and D' posts on compassionate ground from 5% to 10%.

On 02.04.2014, the Government released a Supplementary Order to this Resolution stating that all employment authorities shall take action every year to fill up

the posts reserved for compassionate appointment upto 10% of vacant posts of Class C and D from 2012.

This reveals that the Government was continuing to make appointments on compassionate grounds despite the ban of 2005, and in fact had increased the number of posts earmarked for compassionate appointment to 10%.

6.3.A perusal of the Order dated 31.05.2013 passed by the Education Officer reveals that during the hearing, Respondent No. 3 – President of the Society stated that the Society was ready to appoint the Appellant on compassionate grounds, if the Education Officer grants the permission.

The Education Officer had in the proceedings dated 31.05.2013 recorded that there are 2 post of Junior Clerk vacant in the two Schools run by Respondent Nos. 3 and 4, where the Appellant could be appointed.

This fact has not been either adverted to, or considered by the High Court, in the impugned judgment.

7. In the facts and circumstances of the present case, we allow the Appeal, and set aside the Judgment passed by the High Court on 19.11.2014 in W.P. No. 3520 of 2014.

Respondent Nos. 3 and 4 are directed to submit the proposal for appointment of the Appellant before the Respondent No. 2 –

the Education Officer within one month, so that necessary orders can be passed on the application of the appellant.
Ordered accordingly.
Pending applications, if any, are accordingly disposed of.

.....**J.**
(ABHAY MANOHAR SAPRE)

.....**J.**
(INDU MALHOTRA)

New Delhi
August 26, 2019.