
(2019) 12 BOM CK 0050
In the Bombay High Court
Case No : Writ Petition No. 3176 Of 2018

Anusaya And Ors

APPELLANT

Vs

Maharashtra State Electricity Distribution Co. Ltd. And Ors

RESPONDENT

Date of Decision : 11-12-2019

Acts Referred:

Citation : (2019) 12 BOM CK 0050

Hon'ble Judges : Sunil B. Shukre, J; Rohit B. Deo, J

Bench : Division Bench

Advocate : P.D. Meghe, S.V. Purohit

Final Decision : Dismissed

Judgement

Sunil B. Shukre, J

1. Rule. Rule made returnable forthwith. The writ petition is heard finally with the consent of the learned Counsel for the parties.

2. The husband of petitioner no.1 stood retired on medical ground as per order dated 30/12/1992 w.e.f. 15/03/1993. After his such retirement, petitioner no.1 made an application under the Compassionate Appointment Scheme to the respondents for being considered to be appointed on a suitable post on compassionate ground. In the year 2006, petitioner no.1, instead of getting appointment on compassionate basis, got a part-time relief, when she was brought under the Scheme of Monthly Monetary Benefit vide Government Resolution dated 20/07/1999. Under this scheme, the petitioner, for utilization of some of her time, would get fixed remuneration of Rs.2,000/- per month. The petitioner started getting this remuneration from 2009 onwards. In the year 2011, some amendments were carried out to the Compassionate Appointment Scheme and even the married daughters were brought within the definition of the family. This amendment made petitioner no.2 to make application for grant of compassionate appointment. The application was rejected by the order passed on 29/07/2016 by respondent no.4.

3. Shri P.D. Meghe, learned Counsel for the petitioners submits that the impugned order is unreasoned and that the claim of petitioner no.2 has not been properly considered in terms of the Compassionate Appointment Scheme. Shri S.V. Purohit, learned Counsel for the respondents disagrees with this and submits that after passage of long time, petitioner no.2 would not be entitled to any such relief.

4. The rival arguments can be better appreciated if we take into consideration the object of such a Scheme. The object of any Compassionate Appointment Scheme is to provide immediate relief to a financially distressed family. Whenever untimely death or unexpected premature retirement on medical ground of a sole earning member of the family takes place, invariably the whole family finds itself in deep financial crisis and the family is required to be provided immediate succour by making available opportunity to at least one of the family members to earn livelihood in a meaningful way and with dignity.

5. In the instant case, retirement on medical ground has taken place in March, 1993 and in lieu of compassionate appointment, monetary benefit has also been made available to petitioner no.1, which has been accepted by petitioner no.1. It was only the amendment carried out to the scheme in the year 2011 which prompted petitioner no.2 to file an application, seeking appointment on compassionate basis. The application was made some time in the year 2016 and it was rejected in the very year. The fact that the application was made after a long period of time after 1993 and also the fact that the family had managed to survive for so many years without any benefit of compassionate employment in the family, would show that the family had got over the financial crisis and therefore, the family was not in need of immediate financial help in the year 2013. The conclusion so drawn is further strengthened by belated filing of this petition. The application of petitioner no.2 has been rejected on 29/07/2016 and this petition has been filed in April, 2018.

6. Learned Counsel for the petitioners submits that last communication in this regard was of 09/11/2017 and the petition has been filed within six months from the date of the last communication. Six months is also quite a long time for the family members, who claim to be reeling under financial crisis, to come out and make an application. These facts would only show that the purpose for which compassionate appointment has been sought has already stood served long ago and as such the petition cannot be allowed. A useful reference in this regard be made to the case of State of J & K and others...Versus...Sajad Ahmed Mir, reported in (2006) 5 SCC 766.

7. In compassionate appointment's matter, there is no right to get appointment and whatever right the claimant has, is only in the nature of consideration of the application of the claimant. Such right of consideration, in the light of the object of Compassionate Appointment Scheme, exists only for a reasonable period of time and it would get extinguished after expiry of such time. In the present case, the husband of petitioner no.1, as stated earlier, retired in March, 1993 and

about 20 years thereafter petitioner no.2 has made application seeking appointment on compassionate basis. It is obvious that such a long period of time has resulted into extinguishment of right of petitioner no.2, being a family member of the retired employee, to seek appointment on compassionate basis.

8. Learned Counsel for the petitioners also submits that similarly situated employee Mr. Raut has been granted appointment on compassionate basis by the respondents, although, similarly situated person like petitioner no.2 has been denied the same and thus, the petitioners have been treated with discrimination by the respondents.

9. Learned Counsel for the respondents submits that Raut's situation was quite different as he had applied only for Class-IV post of peon, whereas petitioner no.2 has applied only for Class-III post.

10. The difference in fact situation of this case and that of Raut's case, we would say, is palpable from the record maintained by the respondents, which we have perused now. The record has a copy of application dated 27/02/2013 filed by petitioner no.2. By this application, petitioner no.2 has sought her appointment only to a particular post, which she has described as 'Kanishtha Karyalaen Sahayak (Junior Office Assistant)'. So, it is clear that the fact situation of petitioner no.2 is entirely different from that of said Raut. Here is a case, whether petitioner no.2 is seeking compassionate appointment to a particular post. The law is that under Compassionate Appointment Scheme, a claimant cannot seek his/her appointment to a particular post and if a claimant is seeking the appointment to a specified post, the claimant would disentitle himself/herself for seeking such appointment. On this additional ground, we find that the claim of petitioner no.2 for appointment on compassionate basis could not have been allowed and it has been rightly rejected.

11. Besides, petitioner no.2 was also given benefit under the Monthly Monetary Benefit Scheme and it has been accepted by her. It is a different matter that it has been discontinued after filing of this petition. But, the fact remains that petitioner no.2 has been granted some monetary benefit in lieu of compassionate appointment which has been accepted by her and that would be the additional ground for us to find that now, she is not entitled to any compassionate appointment.

12. In these circumstances, we find that the claim of the petitioners for compassionate appointment is not tenable in law and the writ petition deserves to be dismissed and it stands dismissed.

Record is returned to Shri S.V. Purohit, learned Counsel for the respondents.

Rule stands discharged. No order as to costs.