

(2003) 07 BOM CK 0058

In the Bombay High Court

Case No : Writ Petition No. 4271 of 1999

Ravindra Dayaram Kolhaye

APPELLANT

Vs

State of Maharashtra and Another

RESPONDENT

Date of Decision : 11-07-2003

Acts Referred:

Citation : (2003) 4 MhLj 719

Hon'ble Judges : S.T. Kharche, J;R.J. Kochar, J

Bench : Division Bench

Advocate : P.C. Madkholkar, for the Appellant; T.R. Kankale, A.G.P. for respondent No. 1 and P.S. Shelke, for the Respondent

Final Decision : Allowed

Judgement

S.T. Kharche, J.—This petition is directed against the communication dated 29-6-1999 from the Deputy Chief Executive Officer, Zilla Parishad, Amravati, informing the petitioner that his father took voluntary retirement and, therefore, no appointment could be given to him on compassionate ground on the basis of the Govt. Resolution No. AKP/1093/2335/P.K.- 90/93- A dated 26-10-1994.

2. We have perused the documents annexed with the petition. It appears that the petitioner's father was in the employment of respondent No.2 from 21-12-1963 to 31-10-1998. It appears that the father of the petitioner took voluntary retirement on medical ground as he had suffered Myocardial infarction (heart attack) twice, i.e. first on 1-1-1987 and second on 16-1-1987. The petitioner's father was advised rest and, therefore, he took retirement on medical ground from 1-2-1988. The petitioner thereafter had submitted the applications dated 28-5- 1992, 13-8-1992, 25-5-1993, 22-9-1997, 13-11-1997 and 4-6-1999 to the respondent No.2 seeking appointment on compassionate ground.

3. It is true that as per the above referred Govt. Resolution, compassionate appointment can be given to the relatives of a person who has taken retirement

on medical ground only if he is suffering from T.B., Cancer or any serious disease like these or suffering from any mental disorder or physically handicapped. It is also true that there is no reference in the Govt. Resolution that if a person suffers from myocardial infarction (heart attack) and if he has been retired on that ground, his relatives would be entitled for appointment on compassionate ground. We fail to understand as to how the myocardial infarction cannot be treated as serious ailment at par with suffering from T.B. or mental disorder. The petitioner's father admittedly suffered from myocardial infarction twice and thereafter took voluntary retirement. He made application to respondent No. 2 on 3-10-1987 seeking voluntary retirement on this ground and the petitioner made applications to respondent No. 2 on so many occasions and finally on 4-6-1999 but his case was not considered and his application was rejected on 29-6-1999 on technical ground that his father took voluntary retirement but not on the grounds mentioned in the G. R. dated 26-10-1994. It is unfortunate that the respondent No. 2 did not consider that the petitioner's father was suffering from serious disease, i.e. myocardial infarction and it ought to have considered the claim of the petitioner, who is a son of the retired employee, for appointment on compassionate ground. Therefore, we set aside the impugned order dated 29-6- 1999 and direct the respondent No. 2 to issue the appointment order to the petitioner for appointment on compassionate ground, in accordance with the law within a period of four weeks from the date of receipt of this order. Petition is allowed. Rule is made absolute in above terms. There shall be no order as to costs.