

(2016) 05 BOM CK 0081
In the Bombay High Court
Case No : W.P. No. 2259 of 2016

Shabana Begam Shekh Ahamad

APPELLANT

Vs

State of Maharashtra

RESPONDENT

Date of Decision : 03-05-2016

Acts Referred:

Citation : (2017) 1 BCR 141

Hon'ble Judges : S.S. Shinde and Sangitrao S. Patil, JJ.

Bench : Division Bench

Advocate : Mr. D.S. Bagul, Advocate, for the Respondent No. 2; Mr. S.N. Janakwade, Advocate, for the Petitioner; Mrs. A.V. Gondhalekar, Asst. Government Pleader, for the Respondent No. 1

Final Decision : Allowed

Judgement

S.S. Shinde, J.(Oral) - Heard the learned Counsel for the parties.

2. Rule. Rule made returnable forthwith. By consent of the learned Counsel for the parties, heard finally.

3. Being aggrieved by the impugned communication dated 30th December 2015, addressed by respondent no.2, to the petitioner, the petitioner has filed this petition.

4. The learned Counsel appearing for the petitioner invited our attention to the Government Resolution dated 26th February 2013, issued by the General Administration Department of the Government of Maharashtra and submits that the married daughter is entitled for appointment on compassionate ground. Keeping in view the said policy, the petitioner applied for the appointment on compassionate ground, on 12th July 2014. It is submitted that the petitioner's mother died on 27th August 2013 and application was filed well within limitation on 12th July 2014. It is submitted that the respondents have rejected the application adopting hypertechnical view that the policy of the State Government reflected in afore mentioned Government Resolution so as to provide

employment to the married daughter of the deceased employee has been adopted on 24.11.2014 and the application filed by the petitioner was prior to adopting such policy.

5. The learned Counsel appearing for respondent no.2, relying upon the impugned communication, submits that the petitioner filed the application on 12th July 2014 and the respondent no.2 has adopted the Government policy by issuing notification dated 24.11.2014. He has, therefore, urged that the petition deserves no consideration.

6. We have heard the learned Counsel appearing for the petitioner and the learned Counsel appearing for the respondents. With their able assistance, perused the pleadings in the petition and annexures thereto, in particular, document at Exhibit "F" (Page 24) with the compilation of the Writ Petition.

7. It appears that though the respondent no.2 has adopted the State Government policy to give appointment to the married daughter of the deceased employee on 24th November 2014, however, same was to be given effect with effect from 1st January 2014. Therefore, the application filed by the petitioner on 12th July 2014 ought to have been favourably considered by respondent no.2 on merits instead of rejecting the same on the grounds which are stated in the impugned communication.

8. In the result, the petition is partly allowed.

(a) The impugned communication dated 30.12.2015 issued by respondent no.2 to the petitioner is quashed and set aside.

(b) The respondents are directed to consider the application of the petitioner for appointment on compassionate ground, dated 12th July 2014, on its own merits and without raising the grounds which are raised in the impugned communication. The petitioner's application shall be considered by the respondents from the date of filing such application. If the respondents find petitioner's claim acceptable, keeping in view the relevant policy, we direct the respondents to include the name of the petitioner in the list of the candidates who have applied for appointment on compassionate ground, as expeditiously as possible, however, within six weeks from today.

9. Rule is made absolute in the above terms. There shall be no order as to costs.

10. Parties to act upon an authenticated/certified copy of this judgment.