



**REPORTABLE**

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**41 WRIT PETITION NO. 8711 OF 2024**

**VISHAL RAVINDRA WAGH  
VERSUS  
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND OTHERS**

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Advocate for the Petitioner : Mr. Bolkar Yogesh B.  
AGP for Respondents/State : Mr. R.S. Wani  
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**CORAM : RAVINDRA V. GHUGE &  
Y.G. KHOBRAGADE, JJ.  
DATE : 19<sup>th</sup> August, 2024**

**ORAL ORDER :-**

1. Leave to correct the description of Respondent Nos.1, 3 and 4.
2. This Petition has been filed for seeking compassionate appointment. The Petitioner is the nephew of the deceased bread earner, Vijay Ratan Wagh, who was working as a Peon with the Respondent - Command Area Development Authority (CADA).
3. Vijay Ratan Wagh passed away on 14.05.2009. His widow Smt. Asha is receiving pension and has received the service benefits on account of the demise of her husband. It is stated that the first son of the deceased Vijay, namely Vinod Vijay Wagh, who was enlisted as an eligible candidate for

compassionate appointment, passed away on 11.03.2022. The second son of the deceased-Vijay, namely Himmat Vijay Wagh, passed away on 06.11.2021. Both were unmarried. The name of the Petitioner was recommended by the widow, for compassionate appointment. By the impugned order dated 24.07.2024, the Assistant Superintending Engineer concluded that the Petitioner is not an eligible candidate and rejected the proposal.

4. The Petitioner relies upon the GR dated 29.09.2017, more particularly Clause 4 (A & AA), which read as under:

“(4) अनुकंपा नियुक्तीसाठी पात्र कुटुंबियः—

(अ) अनुकंपा तत्वावरील नियुक्तीसाठी खालील नमूद केलेले नातेवाईक पात्र राहतील व त्यापैकी एका पात्र नातेवाईकास नियुक्ती अनुज्ञेय राहिल.

- (1) पती / पत्नी,
- (2) मुलगा / मुलगी (अविवाहीत / विवाहीत), मृत्यूपूर्वी कायदेशीररित्या दत्तक घेतलेला मुलगा / मुलगी (अविवाहीत / विवाहीत)
- (3) दिवंगत षासकीय कर्मचा—याचा मुलगा हयात नसेल किंवा तो नियुक्तीसाठी पात्र नसेल तर त्याची सून
- (4) घटस्फोटित मुलगी किंवा बहीण, परित्यक्ता मुलगी किंवा बहीण, विधवा मुलगी किंवा बहीण,
- (5) केवळ दिवंगत अविवाहीत षासकीय कर्मचा—यांच्या बाबतीत त्याच्यावर सर्वस्वी अवलंबून असणारा भाउ किंवा बहीण  
(शासन निर्णय, दि.26.10.1994 व दि.17.11.2016)

(आ) मृत अधिकारी / कर्मचा—यांच्या पति / पत्नी ने कोणाची अनुकंपा तत्वावर नियुक्ती करावी याबाबत नामांकन देणे आवश्यक राहिल. मृत अधिकारी / कर्मचा—यांचे पती / पत्नी हयात नसल्यास त्याच्या / तिच्या सर्व पात्र कुटुंबियांनी एकत्रित येउन कोणाची नियुक्ती करावी याबाबत नामांकन करावे. (शासन निर्णय, दि.17.07.2007)”

5. The learned advocate Shri Bolkar submits that Sub-clause-AA would indicate that the widow / survivor of the bread earner can nominate any person to be appointed on compassionate basis.

6. We are unable to accept the submissions of the learned advocate for the Petitioner. Clause-A clearly indicates as to which blood relative would be eligible to be nominated and appointed on compassionate basis. The five categories set out are quite clear and there is no ambiguity in understanding the eligible blood relatives to be granted compassionate appointment, viz. (a) The surviving husband / wife, (b) son / daughter (married /unmarried), (c) a child adopted prior to the death of the bread earner who could be a son / daughter (married / unmarried), (d) if the son of the bread earner is not alive, the daughter in law of the bread earner, (e) a divorced daughter or sister, (f) a destitute daughter or sister, (g) a widowed daughter or sister and, (h) only if the bread earner was unmarried, a brother or a sister who is wholly dependent upon the earnings of the bread earner, are the persons who are eligible to be nominated and appointed on compassionate basis.

7. The fallacy in the submissions of the Petitioner is clear and evident. The Petitioner reads Clause-AA, in isolation. Clause-AA provides that the deceased person or the surviving husband / wife can nominate a person for appointment on compassionate basis. Clause-AA has to be read in tandem with Clause-A, meaning thereby, that Clause-A describes the eligible categories of persons and Clause-AA permits nomination of one of such eligible person. If the widow or widower of the bread earner is not alive, the eligible family

members can come together and nominate one of them for compassionate appointment.

8. We also find that the Petitioner has tactfully not disclosed as to what is the source of earning of his biological father Ravindra Ratan Wagh. There are no details set out. The Petitioner has not been adopted by the deceased prior to his death. There are no pleadings to indicate that the Petitioner was residing with the deceased and was wholly dependent upon him, for his livelihood.

9. The scheme for appointment on compassionate basis floated by the Government is not akin to the scheme available for nomination amongst various categories of close relatives of a Project Affected Person (PAP) certificate holder. The very purpose of compassionate appointment is to offer immediate financial succour to a family which has lost its sole bread earner and to rescue such family from penury. The nomination for appointment on compassionate basis is not a 'ticket' or a 'pass' to any relative of the deceased to earn a berth in employment, unlike the PAP scheme which offers employment to an eligible candidate, as a matter of right. It has been held in catena of judgments that compassionate employment is not a right to secure employment.

10. In the light of the above, we do not find that the impugned order could be termed as being perverse or erroneous, since Clause 4 (A & AA) of the GR has been rightly interpreted, while concluding that the Petitioner does not fall in the category of eligible candidate and rejecting the claim of the Petitioner.

11. **This Writ Petition is, therefore, dismissed.** No order as to costs.

[Y.G. KHOBRADE, J.]

[RAVINDRA V. GHUGE, J.]