

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO.245 OF 2017**

**(Subject :- Compassionate Appointment)**

**DISTRICT : PARBHANI**

**Miss Chaya Bhanudas Dhabadge** )  
@ Mrs. Chaya w/o Vasant Hanwate )  
Age:-43 years, Occ.Nil )  
R/o Dr. Ambedkar Nagar, Parbhani, )  
Tq. & Dist. Parbhani. )...**Applicant**

**V E R S U S**

1. **The State of Maharashtra,** )  
Through its Principle Secretary, )  
Home Department, )  
Mantralaya, Mumbai. )
2. **The Superintendent of Police,** )  
Parbhani. )...**Respondents.**

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**Shri P.A. Satdive, learned Advocate holding for Shri K.V. Pawar/Shri Chetan Jadhav, learned Advocates for the Applicant.**

**Shri M.S. Mahajan, learned Chief Presenting Officer for the Respondents.**

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**CORAM : B.P. PATIL, ACTING CHAIRMAN**

**RESERVED ON : 29.11.2019.**

**PRONOUNCED ON : 03.12.2019.**

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**ORDER**

1. By filing the present Original Application the Applicant sought direction to the Respondent No.2 to consider her claim for appointment on compassionate ground for the post of Junior Clerk and to appoint her on the vacant post as and when such vacancy arises.

2. Deceased Bhanudas Ranoji Dhabadge was father of the applicant. He was serving as Police Head Constable with the Respondent No.2. He died on 30.12.1997 in an accident leaving behind the Applicant and her mother as his legal heirs. The Applicant is born on 06.06.1972. She completed her H.S.C. in the year 2009. She completed her computer course i.e. MS-CIT in March, 2005. The Applicant is belonging to Scheduled Caste.

3. After death of her father, he mother filed an application dated 9.07.1998 with the Respondents for appointment to the Applicant on compassionate ground as she was their only daughter. The mother of the Applicant is living with her. The Applicant is taking care of her mother. The Respondent had not considered her representation. Thereafter, the mother of the Applicant had made another representation dated 29.6.1999. Again she filed another application dated 07.11.2002 and supplied

all the necessary documents. But her applications had not been considered by the Respondents. She made several representations and reminders to the Respondents on 06.04.2005, 02.08.2006, 06.10.2006, 06.10.2007, 01.04.2008, 12.04.2013, 17.04.2013, 15.07.2013 and 14.07.2014.

4. It is contention of the Applicant that in the month of February 2000, the Respondent No.2 had orally asked the mother of the Applicant to bring the legal heir certificate from the competent authority i.e. Tahsildar. Therefore, the Applicant applied to Tahsildar, Parbhani for issuance of legal heir certificate. The mother of the Applicant sought information from the Respondents regarding the number of candidates to whom employment is given under the scheme. By communication dated 06.07.2000, the Respondent No.2 supplied information to the mother of the Applicant in respect of candidates to be considered for appointment on compassionate ground in class –III category. At that time the Applicant came to know that her name was not included in the waiting list for appointment on compassionate ground. The Applicant was orally directed to contact the Collector for appointment on compassionate ground. Therefore, in the months of August 2000, the Applicant applied to the Collector, Dist. Parbhani to consider her request for appointment on compassionate ground. The Collector, Parbhani issued letter dated

29.08.2000 addressed to the Respondent No.2. In reply to the said letter, the Respondent No.2 informed the Collector that since there was defect of eligibility certificate, fresh eligibility certificate was required to be produced by the Applicant by his letter dated 30.08.2000. The Applicant corrected the same. On 27.10.2002, the Respondent No.2 sought attested copy of the Caste Certificate of the Applicant. The Applicant supplied copy of the same on 07.11.2002. In the month of March 2005, the Applicant passed MS-CIT examination and thereafter she supplied the said document to the Respondent on 06.04.2005. The Respondent No.2 communicated to the Collector, Parbhani to upgrade the record of the Applicant in that regard. On 11.8.2008, the Respondent No.2 asked the Applicant as to whether she was married and in case of marriage she was directed to supply the name and address of her husband.

5. By order dated 21.09.2008, the Applicant was invited by the Respondent No.2 through Police Inspector, Police Station Kotwali, Tq. Parbhani for physical test to be conducted on 23.09.2008 at 10:00 a.m. It is her contention that she has not applied for the post of Police Constable and she has applied for the post of Clerk on the basis of her qualification. She was unnecessarily forced to face physical test for the post of Police Constable. It is her contention that in the year 2013, the

Government took decision and issued G.R. dated 26.2.2013 declaring that the married daughter is eligible to get appointment on compassionate ground. On 10.04.2013, the Applicant submitted her affidavit along with undertaking of her husband that they will take care of the widow of the deceased i.e. her mother. In spite of the several communications made by her, the Respondents had not appointed her on compassionate ground. Therefore, she sought information from the Respondent No.2 on 31.07.2013 as to how many persons appointed on compassionate ground. By letter dated 17.10.2013, the Respondent No.2 informed her that total 07 persons were appointed as Junior Clerk on compassionate ground from the year 1998 till 2013 and also supplied waiting list of the candidates to be eligible for appointment on compassionate ground. It has been mentioned therein that her application dated 09.07.1998 has been recorded but it has been registered on 12.04.2013. When she made communication in that regard, the Respondent No.2 informed her that eligibility for appointment on the post of Clerk is 12<sup>th</sup> pass and therefore, her name has been considered and her application was registered on 12.04.2013 after making compliance. It is her contention that in spite of her application, she had not received appointment and therefore, she has filed this Original Application

and prayed to direct the Respondents to appoint her on compassionate ground.

6. The Respondent No.2 resisted the contention of the Applicant by filing the affidavit-in-reply. He has not disputed the fact that deceased Bhanudas Ranoji Dhabadge was father of the Applicant and he died on 30.12.1997 while in service. It is his contention that on 09.07.1998, the mother of the Applicant namely Mathurabai Bhanudasrao Dhabadge filed an application with the Respondent No.2 claiming employment to the Applicant on compassionate ground. On receiving of the application, the Respondent No.2 entered the name of the Applicant on the register maintained for compassionate appointment at Sr.No.11 and intimated the Applicant to furnish details regarding her status and also to comply with the other requisite information as per G.R. dated 26.10.1994. The Applicant had not furnished the information till 25.06.2011. Meanwhile, she made another application dated 26.6.1999 to him. On receiving the said communication, the Respondent No.2 directed the Applicant to furnish information again as it is necessary and mandatory as per G.R. dated 26.10.1994 and 22.08.1996.

7. The Applicant had not supplied the information as to whether she was married or unmarried. On 22.02.2016, the

Respondent No.2 received communication that the Applicant is married as per the marriage card submitted by the Applicant. According to the said information, the Applicant was married on 11.05.1986 i.e. prior to death of her father. It is her contention that as per the G.R. dated 26.10.1994 and 23.08.1996, the married daughter is not eligible for getting appointment on compassionate ground. Therefore, the Applicant was not eligible for getting employment. It is his contention that the Applicant made several representations dated 09.07.1998, 29.06.1999, 12.04.2013, 14.07.2014 and 16.10.2014 with him. Initially she had not mentioned the post on which she is claiming appointment. Thereafter, she claimed appointment on the post of Clerk. In the year 2014, she sought appointment on the post of Police Constable and again in the year 2014, she sought appointment on class IV post i.e. on the post of Peon. It is his contention that on the basis of applications filed by the Applicant on 12.04.2013, her name was mentioned in the waiting list of the eligible candidates to be appointed on compassionate ground on class III post i.e. Clerk at Sr.No.16. It is his contention that 10% of vacancies of total vacancies have to be filled in under the said scheme. At present 5 vacancies are available therein class III category and 6 vacancies in Class IV category. As no seat for appointment on compassionate ground is available, the Applicant has not been

appointed. It is his contention that the Applicant is age barred and therefore, she is not entitled to get appointment on compassionate ground. It is his contention that there is no fault or illegality on the part of the Respondents and therefore, he has prayed to reject the Original Application.

8. I have heard Shri P.A. Satdive, learned Advocate holding for Shri Shri K.V. Pawar/Shri Chetan Jadhav, learned Advocates for the Applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the Respondents. I have perused the documents on record.

9. Admittedly, the deceased Bhanudas Ranoji Dhabadge was father of the Applicant. He was serving as Police Head Constable on the establishment of the Respondent No.2. He died on 30.12.1997 while in service leaving behind the Applicant and her mother as his legal heirs. Admittedly, the mother of the Applicant filed an application dated 9.07.1998 after death of her husband and claimed appointment on compassionate ground for her daughter i.e. the present Applicant. There is no dispute about the fact that thereafter she made several applications dated 29.6.1999, 07.11.2002, 06.04.2005, 02.08.2006, 06.10.2006, 06.10.2007, 01.04.2008, 12.04.2013, 17.04.2013, 15.07.2013 and 14.07.2014 claiming appointment on compassionate ground for the



Applicant. Admittedly, the Applicant had not furnished the required information to the Respondents. Therefore, her name had not been recorded in the waiting list of the eligible candidates to be appointed on compassionate ground. However, her name has been recorded in the waiting list of the eligible candidates to be appointed on compassionate ground in the year 2013 at Sr.No.16. Admittedly, the date of birth of the Applicant is 06.06.1972. She has crossed the age of 45 years.

10. Learned Advocate for the Applicant has submitted that the mother of the Applicant and Applicant were pursuing the Respondent No.2 since the year 1999 for appointment on compassionate ground. But the Respondent No.2 had not recorded name of the Applicant in the waiting list of eligible candidates for appointment on compassionate ground till the year 2013 on one and another ground and he recorded the name of the Applicant in the year 2013 for the first time. But no employment was offered to her by the Respondent No.2. Therefore, he has prayed to direct the Respondent to record the name of the Applicant at Sr.No.1 in waiting list for appointment on compassionate ground and also direct to consider the name of the Applicant for appointment on compassionate ground and appoint her on vacant post as and when vacancy arises.

11. Learned P.O. for the Respondents has submitted that the Applicant has not complied with the directions given by the Respondents as required vide G.R. dated 26.10.1994 and 22.08.1996. Therefore, her name had not been recorded in the waiting list of eligible candidates for appointment on compassionate ground. When she complied with the direction, her name has been recorded in the waiting list in the year 2013. He has submitted that the Respondent directed the Applicant to appear for physical test for appointment on the post of Police Constable. But she had not appeared for physical test. Therefore, she has not been appointed. The Applicant initially had not mentioned the post on which she is claiming appointment. In the year 1999, she filed application and claimed appointment on the post of Clerk. In the year 2014, she changed her option and claimed appointment on the post of Police Constable. By filing application dated 16.10.2014, she claimed appointment on the Class IV post i.e. Peon. He has submitted that because of the applications of the Applicant, her seniority has been changed from time to time. He has argued that as the vacancies were not available to fill up the vacancies under the scheme, the Applicant was not given employment and there is no fault on the part of the Respondents. Therefore, he has prayed to reject the Original Application.

12. On perusal of record it reveals that mother of the Applicant and Applicant had filed several applications since the year 1998 for getting appointment on compassionate ground. Initially she had not mentioned the post on which she desires to be appointed. Thereafter she sought appointment on the post of Clerk. Again she changed the option and sought appointment on the post of Police Constable. In the year 2014, she sought appointment on Class IV post i.e. Peon. The record shows that the Respondent No.2 issued letter in the year 2008 to the Applicant to appear for the physical test for the post of Police Constable. The Applicant had not appeared before the Competent Authority. It shows that the Applicant intentionally avoided to appear for availing the benefit under the said scheme though the job/employment was offered to her. Thereafter, there was no vacancy on the establishment of the Respondent No.2 for class III and Class IV post to fill the posts under the said scheme. Thereafter, the Respondent decided to give employment to the Applicant as per seniority. Meanwhile, the Applicant completed the age of 45 years. Therefore, she is not entitled to get employment under the scheme and therefore, the Respondent No.2 had not offered the employment to the Applicant.

13. The Applicant's marriage took place in the year 1986 i.e. on 11.05.1986. She was married prior to the death of her father. As per the provision of G.R. then prevailing the married daughter is not eligible to get employment on compassionate ground. By G.R. dated 26.02.2013, the married daughter become eligible to get appointment on compassionate ground. Thereafter, her name was recorded. The Applicant has suppressed the material fact that she was married and failed to supply the documents though she was repeatedly asked to furnish the same. The Applicant had not complied with the directions given by the Respondents in time and therefore, her name was not recorded. Therefore, she cannot blame the Respondents in that regard. Because of the non compliance by the Applicant, she had not received employment. In these circumstances, in my view there was no intention or deliberate inaction on the part of the Respondents. There is no illegality on the part of the Respondent No.2. As the Applicant crossed the age of 45 years, she is not entitled to get appointment. Therefore, no such directions as prayed by the Applicant to the Respondent No.2 require to be issued. There is no merit in the Original Application. Consequently, the same deserves to be dismissed.

14. In view of the discussion in the foregoing paragraphs, the Original Application stands dismissed. No order as to costs.

**(B.P. PATIL)**  
**ACTING CHAIRMAN**

**Place:- Aurangabad**

**Date :- 3.12.2019**

Sas. O.A.No.245 of 2017. Appointment on Compassionate Ground. BPP