

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 596 OF 2017**

**DISTRICT: - JALNA.**

**Meena d/o Ram Fattelashkari, @  
Meena w/o Suraj Lakhowale,**

Age : - 30 years, Occu: Nil,  
R/o. Lodhi Mohalla,  
Near Walimamu Dargha,  
Jalna.

**.. APPLICANT.**

**V E R S U S**

- 1. The State of Maharashtra,**  
Through : Secretary  
Technical Education Department,  
Mantralaya, Mummbai-32.

(Copy to be served on the C.P.O.,  
MAT, Aurangabad).

- 2. The Joint Director of Technical Education,**  
Divisional Office, Aurangabad.

- 3. The Principal,**  
Govt. Engineering College,  
Jalna.

**.. RESPONDENTS**

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**APPEARANCE :** Shri Kakasaheb B. Jadhav – learned  
Advocate for the applicant.  
: Mrs. Deepali S. Deshpande – learned  
Presenting Officer for respondents.

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**CORAM :** **HON'BLE SHRI B.P. PATIL,**  
**MEMBER (JUDICIAL)**

**DATE :** **4<sup>TH</sup> OCTOBER, 2018.**

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## **ORDER**

1. The applicant has challenged the communications dated 6.11.2012 and 19.11.2012 issued by the respondent No. 2 & respondent No. 3 respectively informing her about rejection of her claim for appointment on compassionate ground by filing the present Original Application.

2. Shri Ram Fattelashkari, was serving as a Hamal with respondent No. 3. He was father of the applicant. He died on 29.12.2009 in an accident while in service. He has two wives viz. Smt. Shardabai & Smt. Sheelabai. Smt. Shardabai is mother of the applicant. After death of Shri Ram Fattelashkari, his second wife viz. Sheelabai filed an application bearing No. MARJI No. 43/2010 before the Court of Civil Judge, (S.D.), Jalna on 25.2.2010 claiming succession certificate. The mother of the applicant and applicant were the party i.e. respondent Nos. 2 & 3 respectively in the aforesaid application. The said matter ended in compromise between the parties in the Lokadalat on 31.7.2011 and it was agreed between the parties that the present applicant will be entitled to get appointment on compassionate ground and applicant therein had given

no objection for the same. After settlement of dispute between applicant's mother and second wife of deceased Shri Ram Fattelashkari, the respondent No. 3 issued letter dated 23.9.2011 and directed to submit the documents for family pension and appointment on compassionate ground. Accordingly, the applicant submitted an application dated 3.10.2011 for getting appointment on compassionate ground along with all necessary documents to the respondent No. 3. Respondent No. 3 thereafter, sent a proposal to respondent No. 2 and recommended for appointment of the applicant on compassionate ground by letter dated 7.10.2011. Thereafter, mother of the applicant namely Shardabai submitted an application dated 2.7.2012 and 16.8.2012 in the form of reminder and requested the respondent No. 2 to appoint the applicant on compassionate ground.

3. It is further contention of the applicant that she possesses eligible qualification for appointment on compassionate ground. She had orally requested the respondents to appoint her on any post on compassionate ground by visiting the office of the respondents

immediately after the death of her father. But the respondent has not responded to the request of the applicant on the ground that the dispute was going between her mother and stepmother namely Sheelabai and it was told that the application of the applicant for appointment on compassionate ground will be accepted after the settlement of dispute.

4. It is contention of the applicant that respondent No. 2 issued the letter dated 6.11.2012 to the respondent No. 3 and informed that the application filed by the applicant claiming appointment on compassionate ground was not within the stipulated period and, therefore, request of the applicant cannot be considered. On the basis of the said letter, respondent No. 3 informed the applicant about the decision of the respondent No. 2 by communication dated 19.11.2012. It is contention of the applicant that she approached the respondents immediately after death of her father claiming appointment on compassionate ground, but the respondents had not considered her request because of the pendency of the dispute between her mother and stepmother. After settlement of the

dispute, the application of the applicant was not considered by the respondents on the ground that it was not filed within limitation. It is contention of the applicant that communications dated 6.11.2012 and 19.11.2012 issued by respondent Nos. 2 & 3 respectively are illegal and against the provision of the G.R. issued by Government from time to time. Therefore, she approached this Tribunal by filing the present Original Application and prayed to quash and set aside the impugned order and prayed to direct the respondents to consider the case of the applicant for appointment on compassionate ground.

5. Respondent Nos. 1 to 3 resisted the contention of the applicant by filing affidavit in reply. It is their contention that the applicant submitted her application for appointment on compassionate ground on 5.10.2011 to the respondent No. 3 and respondent No. 3 forwarded the same to the respondents on 7.10.2011. It is their contention that father of the applicant namely Ram Fattelashkari died on 29.12.2009. The applicant moved application for appointment on compassionate ground after more than 1 year and 10 months from the date of

death of her father. It is their contention that as per the G.R. dated 22<sup>nd</sup> August, 2005 the application for appointment on compassionate ground ought to have been submitted within a period of one year from the date of death of Government employee. It is their contention that the application has been moved beyond the period of limitation as per the G.R. and, therefore, the same has been rejected by the respondent No. 2. It is their contention that there is no illegality in the communications issued by respondent Nos. 2 & 3 informing the applicant regarding the rejection of her claim, therefore, they supported the communications and prayed to reject the present Original Application.

6. The applicant has filed an affidavit in rejoinder and reiterated contentions to that of the contentions, which have been raised by her in the present Original Application. She prayed to allow the present Original Application.

7. I have heard Shri K.B. Jadhav, learned Advocate for the applicant and Mrs. Deepali S. Deshpande, learned

Presenting Officer for the respondents. I have perused the application, affidavit, affidavit in reply filed by the respondents. I have also perused the documents produced by both the sides.

8. Admittedly, Shri Ram Fattelashkari, was serving as a Hamal with respondent No. 3. He was father of the applicant. He died on 29.12.2009 in an accident while in service. Admittedly, he has two wives viz. Smt. Shardabai & Smt. Sheelabai. Applicant is a daughter of Smt. Shardabai. Admittedly, there was a dispute between Smt. Shardabai & Sheelabai the wives of Shri Ram Fattelashkari, about succession certificate and, therefore, second wife namely Sheelabai filed an application bearing No. MARJI No. 43/2010 before the Court of Civil Judge, (S.D.), Jalna on 25.2.2010. The said dispute was settled in the Lokadalat on 31.7.2011 and they agreed that the applicant will be entitled to get appointment on compassionate ground. Admittedly, thereafter the applicant moved an application dated 3.10.2011 to the respondent No. 3 for appointment on compassionate ground. Admittedly, the said application has been moved

by the applicant after more than 1 year and 10 months after the death of Shri Ram Fattelashkari. There is no dispute about the fact that the respondent No. 2 by communication dated 6.11.2012 informed respondent No. 3 that her application cannot be considered as it was barred by limitation provided under the G.R. dated 22.8.2005. Respondent No. 3 in turn informed the applicant about the decision of the respondent No. 2 by issuing communication dated 19.11.2012.

9. Learned Advocate for the applicant has submitted that in view of the provisions of the G.Rs. dated 23.8.1996 & 5.2.2010 and various GRs issued by the Government in that regard, it is incumbent on the part of the establishment or office of the concerned department, where the deceased employee was serving, to inform the heirs and family members of the deceased Government employees about the scheme regarding the appointment on compassionate ground and the required documents within a period of 15 days from the date of death of the deceased employee or at the time of forwarding the family pension papers. He has submitted that the said



mandatory provision of the G.R. had not been followed by the respondent Nos. 2 & 3 and they had not informed the family members of the deceased Shri Ram Fattelashkari about the scheme and their right to file an application within 15 days. He has submitted that as the said scheme has not been informed to the applicant and other heirs of the deceased Shri Ram Fattelashkari, they could not able to file the application in time. He has submitted that the dispute was going on between two wives of Shri Ram Fattelashkari regarding succession certificate in the Court of Civil Judge, Jalgaon and it was finally concluded on 31.7.2011 by way of comprise and thereafter the respondent No. 3 informed applicant to submit the application and accordingly the applicant has submitted the application on 3.10.2011. He has submitted that as the mandatory provision of the aforesaid G.R. has not been followed by the respondent No. 3, the applicant could not able to file application in time and she filed the application immediately after conclusion of civil proceeding pending between two wives of deceased Shri Ram Fattelashkari. She has submitted that there is no

delay on the part of the applicant in filing the application for appointment on compassionate ground, but the respondent Nos. 2 & 3 has not considered the said aspect and rejected her application on the ground that she has not moved the application in time. He has submitted that this issue has already been settled in **O.A. No. 846/2016 [Shri Kishor S/o. Atmaram Bagul]** decided by this Tribunal on 31.05.2018. He has submitted that the decision is applicable to the present case and, therefore, he prayed to quash the impugned communications dated 6.11.2012 & 19.11.2012 by allowing the present Original Application.

10. Learned Presenting Officer has submitted that the applicant has not moved the application within a stipulated time as provided in the G.R. dated 22.11.2005. She has moved an application after 1 year and 10 months from the date of death of deceased Shri Ram Fattelashkari and, therefore, respondent No. 2 has rightly rejected her application in view of the provisions of G.R. dated 22.11.2005. He has submitted that the applicant and family members of the deceased Shri Ram Fattelashkari

were informed about the provisions immediately after death of Ram Fattelashkari. But they have not filed the application in time. Therefore, respondent No. 2 has rejected the same by communication dated 6.11.2012. He has submitted that there is illegality in issuing the impugned communications dated 6.11.2012 & 19.11.2012 and, therefore, he prayed to reject the present Original Application.

11. On perusal of the documents on record, it reveals that the applicant moved an application dated 3.10.2011 for getting appointment on compassionate ground to the respondent No. 3, which was forwarded by the respondent No. 3 to the respondent No. 2 by letter dated 7.10.2011. Respondent No. 2 rejected the application of the applicant on the ground that application was not filed within a stipulated time in view of the G.R. dated 22.8.2005 and communicated its decision to the respondent No. 3 by letter dated 6.11.2012. Respondent No. 3 informed the decision of the respondent No. 3 to the applicant by communication dated 19.11.2012.

12. The applicant has produced a copy of the application dated 25.6.2010 (Annexure "A-8" Colly., page-34), which has been forwarded by the respondent No. 3 to respondent No. 2 on 8<sup>th</sup> April, 2013 (Annexure "A-8" Colly., page-35). On perusal of the same, it reveals that it has been specifically mentioned in the aforesaid said communication that the said application has been submitted on 25.6.2010, but the endorsement shows that the application has been received to the office of respondent on 2.4.2013. Learned Advocate for the applicant has submitted that the said application has been submitted by the applicant on 2.4.2013 and not 25.6.2010. But on perusal of the application and scrutiny of the document it reveals that application dated 25.6.2010, wherein it has been mentioned that her application is rejected. Her application has been rejected as it was not filed in time, it means that the said application has been prepared by the applicant after receiving the communication dated 6.11.2012 & 19.11.2012. It means that the applicant has created the record to show that she has submitted application within

a stipulated time on 25.6.2010. The applicant has prepared the said application dated 25.6.2010 to mislead the Tribunal with mala fide intention. But on perusal it reveals that the applicant moved an application on 5.10.2011 for the first time and the said application was beyond the period of limitation prescribed in the G.Rs. dated 25.8.1996 & 5.2.2010 as well as other GRs. Respondent No. 2 has rightly considered the said aspect regarding the limitation for filing the application for appointment on compassionate ground and rejected the application dated 5.10.2011 by recording the reasons. Therefore, I do not find any illegality in the impugned communication dated 6.11.2012 as well as 19.11.2012 sent by respondent Nos. 2 & 3 respectively.

13. So far as the submission advanced by the learned Advocate for the applicant that the applicant and other heirs of the deceased Shri Ram Fattelashkari were not aware of the provisions of the scheme and the respondent No. 3 had not informed them about the scheme as required in view of the provisions of the G.Rs. dated 23.8.1996 & 5.2.2010, I do not find substance in his

submissions. On perusal of the pleadings of the applicant in paragraph Nos. 6 (H), (L) & (M), it reveals that immediately after death of Shri Ram Fattelashkari the applicant and her mother visited office of respondent No. 3 and requested him for getting appointment on compassionate ground. This shows that the applicant and other family members of the deceased Shri Ram Fattelashkari were aware about the scheme and, therefore, they approached the respondent No. 3 with a request of appointment on compassionate ground, but they have not moved the application with the respondent No. 3 within stipulated time. Therefore, I do not find substance in the submissions of the learned Advocate for the applicant that the applicant and her mother were not aware about the scheme and the said provisions of the scheme had not been informed and explained to them by respondent No. 3. Therefore, I do not find substance in the submissions advanced by the learned Advocate for the applicant in that regard.

14. Considering the above said discussion, in my opinion, there is no illegality in the impugned

communications dated 6.11.2012 & 19.11.2012 issued by respondent Nos. 3 & 2 respectively regarding rejection of the claim of the applicant on the ground of limitation. Respondent No. 2 has rightly rejected the application of the applicant on the ground that she had not moved the application within a stipulated time. Therefore, I do not find illegality in the impugned order. Therefore, no interference is called for in the impugned communications / orders issued by respondent Nos. 2 & 3. There is no merit in the present Original Application. Consequently it deserves to be dismissed.

15. In view of the discussion in the above paragraphs, the present Original Application stands dismissed without any order as to costs.

**PLACE : AURANGABAD**  
**DATE : 4<sup>TH</sup> OCTOBER, 2018**

**(B.P. PATIL)**  
**MEMBER (J)**

O.A.NO.596-2017(SB)-HDD-2018-  
compassionate appointment