

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI**  
**BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 751 OF 2021**

DIST. : HINGOLI

Santosh Nivrutti Harne, )  
 Age. 42 years, Occ. Nil, )  
 R/o Risala Bazar, )  
 Tq. & Dist. Hingoli, ) .. **APPLICANT**

**V E R S U S**

1. State of Maharashtra, )  
 PWD Department, )  
 25 Marzban Road, )  
 Chhatrapati Shivaji Terminus Area, )  
 Fort, Mumbai. )
2. The Superintending Engineer,)  
 PWD Department, Aurangabad)  
 Tq. & Dist. Aurangabad. )
3. The Divisional Engineer, )  
 PWD Department, Nanded, )  
 Tq. & Dist. Nanded. )
4. The Sub Divisional Engineer,)  
 P.W.D. Department, Ingoli, )  
 Tq. & Dist. Hingoli. )
5. Superintending Engineer, )  
 P.W.D., Nanded. ).. **RESPONDENTS**

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 APPEARANCE :- Smt. Maya Jamdhade, learned counsel  
 for the applicant.

: Shri Mahesh B. Bharaswadkar, learned  
 Chief Presenting Officer for the  
 respondent authorities.

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**CORAM** : **Hon'ble Shri Justice P.R. Bora,**  
**Vice Chairman**  
**and**  
**Hon'ble Shri Vinay Kargaonkar,**  
**Member (A)**  
**DATE** : **14.03.2024**  
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**O R A L - O R D E R**

*[Per :- Justice P.R. Bora, V.C.]*

1. Heard Smt. Maya Jamdhade, learned counsel for the applicant and Shri Mahesh B. Bharaswadkar, learned Chief Presenting Officer for the respondent authorities.
2. It is the grievance of the applicant that he has been wrongly placed in the seniority list of the candidates eligible for to be appointed on compassionate ground, though the application submitted by the applicant was of much earlier period. The applicant is claiming compassionate appointment on the post on which his father was working, who died while in Government service on 22.02.2012. Record reveals that the application was made by the applicant on 03.08.2012. The record further reveals that at the relevant time the applicant was possessing 10<sup>th</sup> standard qualification, as such, he was not considered for appointment on Class-III post. Subsequently the applicant submitted the document of passing certificate course

in Construction Supervisor and therefore his name was enlisted in the list of the candidates eligible for to be appointed on compassionate ground in Class-III category. Learned counsel submitted that the seniority of the applicant must have been reckoned from the date on which he made first application and not from the date on which compliances were made by him.

3. It is the contention of the learned counsel for the applicant that some of the persons have been given appointments after the documents were submitted by the applicant when in fact the applicant must have been given appointment on the said post. Learned counsel therefore prayed for issuance of directions against the respondents to correct the seniority list and show the name of the applicant by reckoning the seniority of the applicant from the date of his first application.

4. Shri M.B. Bharaswadkar, learned Chief Presenting Officer submitted that the applicant though made an application in the year 2012, the certificate of having passed the examination of 'Certificate Course in Constructions Supervisor' was submitted by the applicant in the office on 14.10.2019. Learned C.P.O. submitted that thereafter the case of the applicant was processed and his name was recommended by

the concerned office to the Collector, Hingoli on 03.01.2020. Learned C.P.O. pointed out that thereafter the Collector, Hingoli vide his letter dated 22.11.2020 forwarded the list of the candidates, wherein the name of the present applicant is shown at sr. no. 39. Learned C.P.O. submitted that the seniority list has been prepared in order of dates on which recommendation proposals were forwarded by the concerned offices. Learned C.P.O. further pointed out that in the seniority list, no candidate, whose proposal is recommended by the concerned office after proposal of the applicant has been submitted, has been shown senior to him. Learned C.P.O. submitted that in such circumstances no error can be noticed in the seniority list so published.

5. Smt. Maya Jamdhade, learned counsel appearing for the applicant has referred to the Government Circular dated 12.05.2016. Para 02 of the said Circular is relevant, which reads thus:-

“२. त्याअनुषंगाने कळविण्यात येते की, अनुकंपा तत्वावरील गट-क संवर्गामधील स्थापत्य अभियांत्रिकी सहायक या तांत्रिक पदाचे नियुक्ती प्राधिकारी यांनी त्या परिमंडळातील संबंधित सर्व जिल्हाधिकारी कार्यालयाकडून सदर पदाची अर्हता पूर्ण केलेल्या अनुकंपा धारक उमेदवारांची नांवे प्राप्त करून घ्यावीत व अशाप्रकारे प्राप्त झालेल्या उमेदवारांचा मुळ अनुकंपा यादीतील अर्जाचा दिनांक व अर्हता प्राप्त केल्याचा दिनांक विचारात घेवून ज्येष्ठतेनुसार संबंधित जिल्हाधिकारी कार्यालयाकडे शिफारस

*करावी. तसेच शिपफारस केलेल्या उमेदवारांपैकी संबंधीत जिल्हाधिकारी यांनी अंतिमरित्या कळविलेल्या उमेदवारांमधून, सामान्य प्रशासन विभागाने वेळोवेळी निर्गमित केलेले अनुकंपा विषयक आदेश विचारात घेवून, पात्र उमेदवारांना नियुक्ती द्यावी.”*

6. Referring to the said Circular it has been argued that according to the said Circular the seniority of the applicant must have been considered from the date of his first application.

7. We have considered the submissions advanced on behalf of the applicant and the learned Chief Presenting Officer. We have also gone through the documents placed on record. Though it cannot be disputed that the applicant submitted application seeking appointment on compassionate ground on 03.08.2012, at the relevant time he was holding qualification of 10<sup>th</sup> pass and, as such, could not have been considered for appointment on any of Class-III post. If the applicant was intending appointment on Class-III post, it was incumbent on the part of the applicant to place on record the necessary documents making him eligible for to be recommended for his appointment on Class-III post. The record clearly reveals that, the document of passing Certificate Course in Construction Supervisor was submitted by the applicant on 13.10.2019. Learned C.P.O. had invited our attention to the said letter which

is signed by the applicant addressed to the Superintending Engineer, Public Works Circle, Nanded. From the contents of the said application it reveals that by the said letter the applicant has submitted his certificate and mark sheet of having passed the Certificate Course in Construction Supervisor. Record further reveals that on the basis of the documents so submitted by the applicant the recommendation was made for his appointment on compassionate ground on 03.01.2020 by the Superintending Engineer, Public Works Circle, Nanded to the Collector, Hingoli.

8. Now it has to be examined whether any error has been committed by the respondents in not placing the applicant at appropriate place in the seniority list prepared in the year 2021, which is placed on record in the present matter. After having gone through the documents on record and more particularly various circulars, which are time to time issued in respect of compassionate appointment, it does not appear to us that any error has been committed by the respondents in preparing the seniority list. Government Resolution dated 21.09.2017, which prescribes that unless the candidate concerned does not fulfill the requirement of placing on record all the relevant documents showing his eligibility for

appointment on compassionate ground, his name has not to be included in the waiting list and it will be included in the list on the date such compliance is made by such candidate. Clause १०(ई) in Annexure 'A' of the said G.R. contains such condition, which reads thus:-

“१०(ई) जोपर्यंत अनुकंपा नियुक्तीकरीता आवश्यक असलेली सर्व कागदपत्रे उमेदवारांकडून प्राप्त होत नाहीत तोपर्यंत त्यांचे नांव प्रतीक्षासूचीमध्ये समाविष्ट करता येणार नाही. ज्यादिवशी संपूर्ण कागदपत्रे प्राप्त होतील त्यादिवशी त्यांचे नांव प्रतीक्षासूचीमध्ये समाविष्ट करावे. (शासन परिपत्रक दि. ५/२/२०१०).”

9. From the documents it is obvious that since the applicant submitted the requisite document i.e. the certificate of Construction in Supervisor examination on 14.10.2019 the matter of the applicant was processed by the office of the Superintending Engineer, Public Works Circle, Nanded and thereafter on 03.01.2020 name of the applicant was recommended for his appointment to the Collector, Hingoli. We have carefully gone through the waiting list. It reveals that names of the candidates are enlisted in the said seniority list in order of date of their recommendation made by the concerned office. There is logic in adopting such criteria for the reason that from recommendation of name of the candidate and date on which it is recommended it is assumed that such candidate has made all compliances on that date. No candidate is noticed

to have placed above the applicant whose recommendation is of later date i.e. 03.01.2020. After having considered the facts as aforesaid it does not appear to us that any error has been committed by the respondents in preparing the seniority list of the candidates eligible for to be appointed on compassionate ground. The Original Application being without substance deserves to be dismissed. Hence, we pass the following order:-

**ORDER**

The Original Application stands dismissed, however, without any order as to costs.

**MEMBER (A)**

**VICE CHAIRMAN**

**Place : Aurangabad**

**Date : 14.03.2024**