

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

**ORIGINAL APPLICATION NO. 76 OF 2023  
(Subject – Compassionate Appointment)**

**DISTRICT : HINGOLI**

**Pankaj s/o Dattatraya Soundankar,** )  
Age : 31 years, Occu. : Nil, )  
R/o : Krupa Bhawan, Sawarkar Nagar, )  
Hingoli, Tq. and Dist. Hingoli. )

.... **APPLICANT**

**V E R S U S**

1. **The State of Maharashtra,** )  
Through its Secretary, )  
Revenue and Forest Department, )  
Mantralaya, Mumbai-32. )
2. **The District Collector,** )  
Hingoli, Office near Naik Nagar, )  
Nanded Road, Hingoli, Dist. Hingoli. )
3. **The Tahsildar,** )  
Tahsil Office Kalamnuri, Tq. Kalamnuri,)  
Dist. Hingoli. )

... **RESPONDENTS**

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**APPEARANCE** : Shri V.G. Pingle, Counsel for Applicant.

: Shri D.R. Patil, Presenting Officer for  
respondents.

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**CORAM** : **Hon'ble Justice Shri V.K. Jadhav, Member (J)**

**DATE** : **28.11.2023.**  
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**ORAL - ORDER**

1. Heard Shri V.G. Pingle, learned counsel appearing for the applicant and Shri D.R. Patil, learned Presenting Officer appearing for respondent authorities.

2. The present matter pertains to compassionate appointment. Being aggrieved by communications dated 05.03.2016 (Annexure A-10) and 26.10.2016 (page No. 59 of paper book) issued by respondent No. 2, thereby denying the claim of the applicant for appointment on compassionate ground in place of his deceased father viz. Dattatraya Pandharinath Soundankar, who was serving as Talathi under the control of respondent No. 3 and expired while in service due to heart attack on 25.05.2007, has approached this Tribunal by filing present Original Application.

3. Brief facts giving rise to the Original Application are as follows :-

(i) Father of the applicant viz. Dattatraya Pandharinath Soundankar was serving as Talathi on the establishment of respondent No. 3 and while in service due to heart attack expired on 25.05.2007. After death of father immediately on 21.07.2007, the applicant has submitted an application to

respondent No. 3 for appointment on compassionate ground in place of his deceased father. Thereafter, the applicant again submitted an application dated 17.11.2007 annexing relevant copies of documents and requested to give him appointment on compassionate ground. Copies of the applications dated 21.07.2007 and 17.11.2007 respectively annexed to the Original Application. Thereafter on 30.06.2008, the respondent No. 3 has issued certificate-cum-recommendation regarding entitlement of the applicant for appointment as Talathi on compassionate ground. The applicant again filed an application dated 25.08.2009 and submitted relevant documents. The applicant has also requested in the said application to respondent No. 3 for issuance of appointment order on compassionate ground.

(ii) It is the further case of the applicant that thereafter respondent No. 3 on 18.11.2014 forwarded reply and clarification pursuant to letter dated 12.11.2014 issued by respondent No. 2. Thereafter on 18.06.2015, the applicant requested respondent No. 3 for inclusion of his name in the waiting list of the candidates to be appointed on

compassionate ground. The applicant has thereafter time to time submitted application in this regard.

(iii) It is the further case of the applicant that during the period from 18.11.2014 to 05.03.2016, the respondent Nos. 2 and 3 have not done anything, however after laps of more than 9 years ignoring the clarification dated 18.11.2014 tendered by respondent No. 3, by impugned communication dated 05.03.2016 the respondent No. 2 denied the claim of the applicant for appointment on compassionate ground by referring G.R. dated 26.10.1994. The applicant has, therefore, again filed an application dated 20.08.2016 to reconsider his claim sympathetically. By impugned communication dated 26.10.2016, respondent No. 2 has denied to consider the claim of the applicant. Hence, the present Original Application.

4. Learned counsel for the applicant submits that the applicant had submitted his application immediately for appointment on compassionate ground in place of his deceased father, who died in harness while on duty and even though the respondent No. 3 has given positive recommendation on it, respondent No. 2 has finally denied to give appointment to the

applicant on compassionate ground after lapse of more than 9 years. Learned counsel submits that there are no justifiable reasons for denying the genuine claim of the applicant. Learned counsel further submitted that respondent No. 2 has denied the genuine claim of the applicant mainly on the ground that mother of the applicant was serving on the Government post at the time of death of father of the applicant and that in terms of G.R. 26.10.1994, the applicant is not entitled for compassionate appointment. Learned counsel submitted that mother of the applicant was serving on the Semi-Government post and she was finally retired on 30.06.2012. Though she is getting pension and family pension, same is not sufficient for survival of the family. Learned counsel submits that the Original Application thus deserves to be allowed.

5. Learned Presenting Officer submits that father of the applicant was expired on 25.05.2007 and thereafter, the applicant has filed applications on 21.07.2007 and 17.11.2007 respectively to the Tahsildar, Kalamnuri, Dist. Hingoli (respondent No. 3), but the Tahsildar, Kalamnuri, Dist. Hingoli first time vide letter dated 20.01.2013 has forwarded the proposal to the respondent in respect of an appointment to the applicant on compassionate ground. The Tahsildar, Kalamnuri

has forwarded the proposal belatedly and, therefore, the respondent No. 2 vide letter dated 07.02.2013 called original file and explanation. In response to the same, respondent No. 3 Tahsildar, Kalamnuri, Tq. Hingoli vide letter dated 26.10.2013 informed that thought the applicant has filed application within time in the Tahsil office, Kalamnuri for his appointment on compassionate ground in place of his father, but the concerned Clerk has not submitted the same to the office of respondent No. 2. In consequence thereof, show cause notice was issued to the concerned Clerk and his explanation was sought. The respondent No. 3 has further submitted that the delay has been caused on part of the Tahsil office, Kalamnuri to forward the application of the applicant to the respondent authorities and therefore, the said delay may be condoned and name of the applicant shall be registered in the list of candidates for appointment on compassionate ground.

6. Learned P.O. further submits that mother of the applicant was serving as Teacher in Bhartiya Vidya Mandir (Primary), Hingoli and she was retired from the service as Head Mistress on 30.06.2012. She is getting family pension from Treasury Office, Hingoli. As per the letter of District Treasury Officer, Hingoli dated 28.12.2015, wife of the deceased employee

i.e. Smt. Latabai W/o Dattatray Soundankar is getting monthly family pension of Rs. 18,261/-. Learned P.O. submits that mother of the applicant has filed an affidavit dated 27.08.2013 and admitted the same. The applicant is not residing separately from his mother and as such, his claim cannot be considered for appointment on compassionate ground.

7. Learned P.O. submits that the Government employee viz. Dattatraya Pandharinath Soundankar, Talathi Kalamnuri died on 25.05.2007 and at that time, his wife viz. Smt. Latabai W/o Dattatray Soundankar was working as Teacher at Bhartiya Vidya Mandir (Primary), Hingoli and retired from service as Head Mistress on 30.06.2012. As per the clause 7(b) of the G.R. dated 26.10.1994, the claim of the applicant is not fit to be considered for compassionate appointment and therefore, vide letter dated 05.03.2016, the claim of the applicant has been rejected. The applicant has again filed an application dated 20.08.2016 to reconsider his claim sympathetically, however on the same ground by communication dated 26.10.2016 the respondent authorities rejected the claim of the applicant and disposed of his application.

8. Learned P.O. submits that it is well settled that the request for appointment on compassionate grounds should be

reasonable and proximate at the time of death of the bread earner of the family, inasmuch as the very purpose of giving such benefit is to make financial help available to the family to overcome sudden economic crisis occurring in the family of the deceased, who has died in harness. But this, however, cannot be another source of recruitment. Learned P.O. submits that the Original Application is liable to be dismissed with costs.

9. In the case of **Union of India Vs. P. Venkatesh** reported in **(2019) 15 SCC 613** in para No. 7, the Hon'ble Apex Court has made following observations :-

*“7. The primary difficulty in accepting the line of submissions, which weighed with the High Court, and were reiterated on behalf of the respondent in these proceedings, is simply this: Compassionate appointment, it is well-settled, is intended to enable the family of a deceased employee to tide over the crisis which is caused as a result of the death of an employee, while in harness. The essence of the claim lies in the immediacy of the need. If the facts of the present case are seen, it is evident that even the first recourse to the Central Administrative Tribunal was in 2007, nearly eleven years after the death of the employee. In the meantime, the first set of representations had been rejected on 3 January 1997. The Tribunal, unfortunately, passed a succession of orders calling upon the appellants to consider and then re-consider the representations for compassionate appointment. After the Union Ministry of Information and Broadcasting rejected the representation on 13 November 2007, it was only in 2010 that the Tribunal was moved again, with the same result. These successive orders of Tribunal for re-consideration of the representation cannot obliterate the effect of the initial delay in moving the Tribunal for compassionate appointment over a decade after the death of the deceased employee.”*

10. In the case of **State of Himachal Pradesh and Anr. Vs. Shashi Kumar** reported in (2019) 3 SCC 653, the Hon'ble Apex Court of India in para Nos. 21 & 26 has made following observations :-

*“21. The decision in Govind Prakash Verma [Govind Prakash Verma v. LIC, (2005) 10 SCC 289, has been considered subsequently in several decisions. But, before we advert to those decisions, it is necessary to note that the nature of compassionate appointment had been considered by this Court in Umesh Kumar Nagpal v. State of Haryana [Umesh Kumar Nagpal v. State of Haryana, (1994) 4 SCC 138]. The principles which have been laid down in Umesh Kumar Nagpal [Umesh Kumar Nagpal v. State of Haryana, (1994) 4 SCC 138] have been subsequently followed in a consistent line of precedents in this Court. These principles are encapsulated in the following extract: (Umesh Kumar Nagpal case [Umesh Kumar Nagpal v. State of Haryana, (1994) 4 SCC 138], SCC pp. 139-40, para 2)*

*“2. ... As a rule, appointments in the public services should be made strictly on the basis of open invitation of applications and merit. No other mode of appointment nor any other consideration is permissible. Neither the Governments nor the public authorities are at liberty to follow any other procedure or relax the qualifications laid down by the rules for the post. However, to this general rule which is to be followed strictly in every case, there are some exceptions carved out in the interests of justice and to meet certain contingencies. One such exception is in favour of the dependants of an employee dying in harness and leaving his family in penury and without any means of livelihood. In such cases, out of pure humanitarian consideration taking into consideration the fact that unless some source of livelihood is provided, the family would not be able to make both ends meet, a provision is made in the rules to provide gainful employment to one of the dependants of the deceased who may be eligible for such employment. The whole object of granting compassionate employment is thus to enable the family to tide over the sudden crisis. The object is not to give a member of such family a post much less a*

*post for post held by the deceased. What is further, mere death of an employee in harness does not entitle his family to such source of livelihood. The Government or the public authority concerned has to examine the financial condition of the family of the deceased, and it is only if it is satisfied, that but for the provision of employment, the family will not be able to meet the crisis that a job is to be offered to the eligible member of the family. The posts in Classes III and IV are the lowest posts in non-manual and manual categories and hence they alone can be offered on compassionate grounds, the object being to relieve the family, of the financial destitution and to help it get over the emergency. The provision of employment in such lowest posts by making an exception to the rule is justifiable and valid since it is not discriminatory. The favourable treatment given to such dependant of the deceased employee in such posts has a rational nexus with the object sought to be achieved viz. relief against destitution. No other posts are expected or required to be given by the public authorities for the purpose. It must be remembered in this connection that as against the destitute family of the deceased there are millions of other families which are equally, if not more destitute. The exception to the rule made in favour of the family of the deceased employee is in consideration of the services rendered by him and the legitimate expectations, and the change in the status and affairs, of the family engendered by the erstwhile employment which are suddenly upturned.”*

26. *The judgment of a Bench of two Judges in Mumtaz Yunus Mulani v. State of Maharashtra [(2008) 11 SCC 384] has adopted the principle that appointment on compassionate grounds is not a source of recruitment, but a means to enable the family of the deceased to get over a sudden financial crisis. The financial position of the family would need to be evaluated on the basis of the provisions contained in the scheme. The decision in Govind Prakash Verma [Govind Prakash Verma v. LIC, (2005) 10 SCC 289 : 2005 SCC (L&S) 590] has been duly considered, but the Court observed that it did not appear that the earlier binding precedents of this Court have been taken note of in that case.”*

11. It is well settled that the compassionate appointment is not a matter of right, but is intended to enable the family of a deceased employee to tide over the crisis which is caused as a result of the death of an employee, while in harness. In terms of G.R. dated 26.10.1994 and more particularly clause 7(b), it is clear that to overcome financial crises on account of untimely death of bread earner of the family, the aforesaid provision with regard to the compassionate appointment has been made.

12. In the instant case, on careful perusal of the first application submitted by the applicant dated 21.07.2007 (Annexure A-2 collectively), it appears that the applicant has suppressed the fact about employment of his mother and further pretended that maintaining of family consisting of his mother and sister is entirely upon him and therefore, he may be given compassionate appointment in place of his father, who died in harness while in Government service.

13. It is pertinent to note here that respondent No. 3 i.e. the Tahsildar, Kalamnuri, Dist. Hingoli has forwarded the proposal of the applicant for his compassionate appointment for the first time vide letter dated 20.01.2013 and when enquired by respondent No. 2 about belated submission of proposal,

respondent No. 3 by communication dated 18.11.2014 (Annexure A-5) has informed to respondent No. 2 that the concerned Clerk has not forwarded the said proposal, though the applicant has submitted application seeking compassionate appointment in time. Further in the said communication dated 18.11.2014 (Annexure A-5), it is also informed that wife of Government employee i.e. late Dattatraya Pandharinath Soundankar, Talathi was in the Semi-Government service and was retired on 30.06.2012 on superannuation and that the family of the applicant is now facing financial crises. It is also informed that the explanation has been called from the said Clerk of Tahsil Office, Kalamnuri for belatedly forwarding proposal of the applicant and he has also been given show cause notice.

14. It has already stated in foregoing paragraphs that in the first application submitted by the applicant in the year 2007, he has suppressed the material information about employment of his mother. Further only after retirement of mother as Head Mistress of a school, the proposal about appointment of the applicant on compassionate ground came to be forwarded to respondent No. 2. Thus irresistible inference could be drawn as to for whose benefit the proposal of the applicant was not submitted to respondent No. 2 for the period in between 2007

and 2013. It is clear that only after retirement of mother of the applicant, pending proposal of the applicant about his appointment on compassionate ground of the year 2007 has been forwarded to respondent No. 2 in the year 2013 with a remark of the then Tahsildar of Kalamnuri that the family of the applicant is facing financial crises.

15. It is well settled that appointment on compassionate grounds is not a source of recruitment, but a means to enable the family of the deceased to get over a sudden financial crisis. In the instant case, at the time of death of Government employee, mother of the applicant was serving as Teacher in the school and she was retired on 30.06.2012 as Head Mistress. She is also getting family pension after retirement. Thus, the claim of the applicant is false, imaginary and with an ulterior motive to seek appointment under the pretext of compassionate ground and not to overcome financial crises. In fact, there were no financial crises till 2013 and only after retirement of mother of the applicant from the Semi-Government post, story of financial crises has been put-forth by the applicant through Tahsil Office, Kalamnuri.

16. In view of the same, in my considered opinion, no case is made out by the applicant for appointment on

compassionate ground in place of his deceased father, who died in harness while in Government service. The Original Application thus liable to be dismissed. In the circumstances, however, there shall be no order as to costs. Hence, the following order :-

**ORDER**

- (i) Original Application No. 76/2023 is hereby dismissed.
- (ii) In the circumstances, there shall be no order as to costs.
- (iii) O.A. stands disposed of accordingly.

**PLACE : Aurangabad.**  
**DATE : 28.11.2023**

**(Justice V.K. Jadhav)**  
**Member (J)**