

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 934 OF 2017
(Subject – Compassionate Appointment)**

DISTRICT : NANDURBAR

Shri Vaibhav S/o Rajusing Rajput,)
Age : 19 years, Occu. : Education,)
R/o. C/o. Amol Rajput, Adarshnagar,)
Plot No. 6, Dhule Road, Chalisgaon,)
Tq. Chalisgaon, Dist. Jalgaon.

.. **APPLICANT**

V E R S U S

1) **The State of Maharashtra,**)
Through, Secretary,)
Home Ministry, Mantralaya,)
Mumbai.)

2) **Director General of Police,**)
Shahid Bhagatsing Road, Kulaba,))
Mumbai.)

3) **Superintendent of Police,**)
Nandurbar, Tq. & Dist. Nandurbar.)

.. **RESPONDENTS**

APPEARANCE : Shri R.V. Gore, Advocate for the Applicant.

: Shri D.R. Patil, Presenting Officer for
the Respondents.

CORAM : B.P. PATIL, MEMBER (J).

DATE : 12.02.2019.

O R D E R

1. The applicant has challenged the order dated 04.02.2017 passed by the respondent No. 3 rejecting his claim for appointment on compassionate ground and prayed to quash and

set aside the said order and also prayed to direct the respondents to appoint him on compassionate ground by filing the present Original Application.

2. Deceased Rajusing Rajput was the father of the applicant. He was appointed as Police Sub Inspector with the respondents on 25.08.1988. He died in an accident on 16.10.2001, while in service. Rajusing Rajput was drawing salary in the pay scale of 5500-175-9000. His basic pay was Rs. 7,425/- at the time of his death.

3. It is contention of the applicant that his date of birth is 04.11.1998. He was minor at the time of death of his father. On attaining the age of majority, he had filed an application with the respondents on 05.01.2017 for appointment on compassionate ground. The respondent No. 3 rejected his application on 04.02.2017 on the ground that the post of Police Sub Inspector falls under Group-B category and therefore, he is not entitled to get appointment on compassionate ground in view of the G.R. dated 02.07.2002. Thereafter, the mother of the applicant had filed an application dated 31.07.2017 and requested the respondents not to consider the order dated 04.02.2017, as the G.R. dated 22.08.2005 was not in existence when her husband died on 16.10.2001. But the respondents had not taken cognizance of her application.

4. It is contention of the applicant that his father was Group-C employee and he was drawing pay of Rs. 7,425/- at the time of his death. It is contention of the applicant that the respondents have not considered the G.Rs. issued by the Government from time to time with a proper perspective and the impugned order is in violation of the G.Rs. Therefore, he prayed to allow the present O.A. and to quash and set aside the impugned order dated 04.02.2017 passed by the respondent No. 3 and also prayed to direct the respondents to appoint him on compassionate ground.

5. The respondent Nos. 1 to 3 have filed their affidavit in reply and resisted the contentions of the applicant. They have not disputed the relation of the applicant with deceased Rajusing Rajput. They have not disputed the fact that Rajusing Rajput was appointed as PSI in the pay scale of Rs. 385-15-500-20-880 and thereafter, his pay was fixed in the pay scale of Rs. 5500-175-9000. They have admitted the fact that Rajusing Rajput died in an accident on 16.10.2011, while in service and that time, the applicant was minor. They have admitted the fact that the applicant had filed an application dated 05.01.2017 for appointing him on compassionate ground after attaining the age of majority. It is their contention that the State Government vide G.R. dated

02.07.2002 classified the post as per the revised pay scale in view of the application of the 5th Pay Commission. Accordingly, the post of PSI falls under Class-B (Non Gazatted) category and therefore, the legal heirs of PSI are not eligible to get employment on compassionate ground. They have admitted the fact that the applicant had filed another application dated 31.07.2017 with a request to appoint him on compassionate ground. The application was forwarded to the S.P. Nandurbar on 21.11.2017. The S.P. Nandurbar by his communications dated 21.11.2017 and 12.12.2017 informed the applicant his inability to consider the request of the applicant in view of the G.R. dated 02.07.2002. It is their contention that only the legal heirs of the deceased employee from Group- C and Group-D are entitled to get appointment on compassionate ground. It is their contention that the respondent No. 3 has rightly rejected the application of the applicant in view of the G.Rs. issued by the Government from time to time and there is no illegality in it. It is their contention that the State Government issued the G.R. dated 27.05.2016 and classified the employees in group A to D on the basis of their pay scale and in view of that G.R. also the applicant's request cannot be considered, as his father was group-B employee. It is their contention that there is no illegality in the impugned order and therefore, they prayed to reject the present Original Application.

6. I have heard Shri R.V. Gore, learned Advocate for the applicant and Shri D.R. Patil, learned Presenting Officer for the respondents. I have perused the documents placed on record by both the parties.

7. Admittedly, Rajusing Rajput was father of the applicant. Admittedly, Rajusing Rajput was appointed as PSI on 25.08.1988. He died in an accident on 16.10.2001 leaving behind the applicant and others as his legal heirs. Admittedly, Rajusing Rajput was getting salary in the pay scale of Rs. 5500-175-9000 at the time of his death. Admittedly, the applicant was minor at the time of death of his father i.e. Rajusing Rajput. Admittedly, the date of birth of the applicant is 04.11.1998. The applicant has attained the age of majority on 4th November 2016. Admittedly, after attaining the age of majority, the applicant has filed an application for appointment on compassionate ground with the respondents on 05.01.2017. The said application came to be rejected by the impugned communication dated 04.02.2017 issued by the respondent No. 3 on the ground that the post of Police Sub Inspector falls under Group-B category and therefore, he is not entitled to get appointment on compassionate ground.

8. Learned Advocate for the applicant has submitted that the G.R. dated 02.07.2002 provides classification of the

Government employees on the basis of their pay scale and as per the said classification, the employees getting pay scale more than 4400/- and less than 9000/- are in Group-C category. He has submitted that deceased Rajusing Rajput was working as a PSI in the pay scale of Rs. 5500-175-9000 and considering his pay scale, the post PSI can be treated as Group-C post. But the respondents had not considered the said aspect and wrongly held that the post of PSI falls under Group-B category. He has submitted that the Hon'ble High Court of Judicature at Bombay Bench at Aurangabad in **W.P. No. 5440 of 2009** in case of **Dinesh S/o Shamrao Sonawane Vs. The State of Maharashtra and Ors.** decided on 05.02.2010 has specifically held that if the pay scale is between Rs. 4400/- up to Rs. 9000/-, such cases would be covered by Group-C category. He has submitted that the respondents have not considered the said legal aspect and wrongly rejected the application of the applicant and therefore, he prayed to quash and set aside the impugned order dated 04.02.2017 issued by the respondent No. 3 and to direct the respondents to appoint the applicant on compassionate ground.

9. Learned Presenting Officer has submitted that the post of PSI falls under Group-B category. Deceased Rajusing Rajput was drawing salary in the pay scale of Rs. 5500-175-9000 at the time of

his death. He has submitted that the Government issued the G.R. dated 27.05.2016 and clarified the confusion regarding the classification of the employees made in Group A to D category as per the G.R. dated 02.07.2002. He has submitted that in view of the said G.R., the pay scale of Rs. 5500-175-9000 falls under Group-B category and it has been mentioned therein that the pay scale starting from 4400-8999 falls under Group-C category. He has submitted that in view of the said G.R., the confusion regarding interpretation of the G.R. dated 02.07.2002 has come to an end. He has submitted that in view of said G.R., the post of PSI, of which pay scale is Rs. 5500-175-9000 falls under Group B category and therefore, the applicant being heir of deceased Rajusing Rajput, who was Group-B category employee is not entitled to get the benefits of the scheme implemented by the Government vide G.R. dated 22.08.2005. He has submitted that the respondent No. 3 has rightly considered the provisions of the G.R. dated 27.05.2016 and rejected the application of the applicant. He has submitted that there is no illegality in the impugned order and therefore, he prayed to reject the present Original Application.

10. On perusal of the record, it reveals that the Government has framed a scheme for appointment to LRs of the deceased

employee on compassionate ground in the year 1976. Thereafter, scheme has been revised from time to time in the years 1985 and 1994. By the G.R. dated 22.08.2005, the Government has revised the scheme. The said G.R. provides that the scheme is applicable to the employees classified under Group-C and Group-D employees only.

11. The father of the applicant Rajusing Rajput was serving as PSI when he died in an accident on 16.10.2001. He was getting salary in the pay scale of Rs. 5500-175-9000. The Government issued the G.R. dated 02.07.2002 and classified the employees in four groups i.e. Group-A to D on the basis of pay scale. The relevant portion of the said G.R., is as follows:-

“ **राज्य शासन सेवेतील निरनिराळ्या वेतनश्रेणीतील पदांचे वर्गीकरण.**

महाराष्ट्र शासन

सामान्य प्रशासन विभाग

शासन निर्णय, क्रमांक : एसआरव्ही-१०९८/१६४४/प्र.क्र. २/९९/बारा,

मंत्रालय, मुंबई ४०० ०३२.

दिनांक :- २ जुलै, २००२.

वाचा - १) शासन निर्णय, सा.प्र.वि.एसआरव्ही - १०८८/प्र.क्र. १३/८८/बारा, दिनांक २९ जुलै, १९९३.

२) केंद्र शासनाचे कार्मिक व प्रशिक्षण विभागाचे कार्यालयीलून आदेश क्रमांक -१३०१२/१/९८/इएसटीटी (डी), दि. १२ जून, १९९८.

शासन निर्णय

चौथ्या वेतन आयोगाच्या अनुषंगाने केंद्र शासनाने वेतनश्रेणीनुसार ज्याप्रमाणे पदांचे वर्गीकरण केले, त्या धर्तीवर राज्य शासनाने परिस्थितीनुरूप काही बदल करून, राज्य शासन सेवेतील पदांचे वर्गीकरण केले, राज्य शासन सेवेतील पदांचे वर्गीकरण उपरोल्लेखित दि. २९ जुलै, १९९३ च्या शासन निर्णयानुसार केले.

२. आता राज्य शासनाने पाचव्या वेतन आयोगाच्या अनुषंगाने सुधारीत वेतनश्रेणी मंजूर केल्या असल्याने उपरोल्लेखित दि. २९ जुलै, १९९३ चा शासन निर्णय अधिक्रमित करून, राज्य शासन सेवेतील पदांचे सुधारीत वेतनश्रेणीनुसार खालीलप्रमाणे नव्याने वर्गीकरण करण्यात येत आहे.

<u>अ.क्र.</u>	<u>पदांचा तपशिल</u>	<u>पदांचे वर्गीकरण</u>
१.	ज्या पदांचे वेतन किंवा पदांच्या वेतनश्रेणीची कमाल मर्यादा रु. ११,५००/- पेक्षा कमी नाही, अशी पदे,	गट -अ
२.	ज्या पदांचे वेतन किंवा पदांच्या वेतनश्रेणीची कमाल मर्यादा रु. ९,०००/- पेक्षा कमी नाही आणि रु. ११,५००/- पेक्षा कमी आहे , अशी पदे,	गट -ब
३.	ज्या पदांचे वेतन किंवा पदांच्या वेतनश्रेणीची कमालमर्यादा रु. ४,४००/- पेक्षा कमी नाही आणि रु. ९०००/- पेक्षा कमी आहे, अशी पदे,	गट -क
४.	ज्या पदोचे वेतन किंवा पदांच्या वेतनश्रेणीची कमालमर्यादा रु. ४,४००/- पेक्षा कमी नाही, अशी पदे,”	गट - ड

The said G.R. has been interpreted by the Hon'ble High Court of Judicature at Bombay Bench at Aurangabad in **W.P. No. 5440 of 2009** in case of **Dinesh S/o Shamrao Sonawane Vs. The State of Maharashtra and Ors.** decided on 05.02.2010 and it has been held in the said decision as follows:-

“5.....
.....The Natural meaning to the assigned to the above Clauses, in our opinion, is that if the Pay Scale is between Rs. 4400/- up to Rs. 9000/-, such cases would be covered by Group-C category, whereas if the Pay Scale is between Rs. 9001/- up to Rs. 11500/-, the same will be covered by Group-B category. If any other interpretation

is given to the said clauses, it would create anomalous situation.”

Since there was confusion regarding the classification of the categories of the employees on the basis of their pay scales, the Government issued another G.R. dated 27.05.2016 explaining the categories of the employees classified under Group-A to D category and removed the confusion. The said G.R. is material and therefore, I reproduce the same :-

“राज्य शासन सेवेतील निरनिराळ्या
वेतनश्रेणीतील पदांचे वर्गीकरण
५व्या वेतन आयोगानुसार कलेल्या
वेतनश्रेण्याबाबत स्पष्टीकरण

महाराष्ट्र शासन
सामान्य प्रशासन विभाग
शासन निर्णय, क्रमांक : एसआरव्ही-२०१५/प्र.क्र. ४७०/९९/कार्या. १२,
मादाम कामा मार्ग, हुतात्मा राजगुरु चौक,
मंत्रालय, मुंबई ४०० ०३२.
दिनांक :- २७ मे, २०१६.

वाचा - १) शासन निर्णय क्रमांक : सामान्य प्रशासन विभाग, एसआरव्ही-१०१८/प्र.क्र.
२/९९/१२ दि. २.७.२००२

प्रस्तावना :-

५ व्या वेतन आयोगाच्या अनुषंगाने राज्य शासन सेवेतील पदांचे गटनिहाय वर्गीकरण संदर्भाधीन शासन निर्णयान्वये करण्यात आलेले आहे. सदरहू शासन निर्णयातील पदांच्या वर्गीकरणाच्या अनुषंगाने रु. ५५००-९०००/- या वेतनश्रेणीतील पदे गट-ब मध्ये की गट-क मध्ये येतात असा संभ्रम निर्माण झाला आहे. सदरहू संभ्रम दूर करण्याच्या अनुषंगाने दि. ०२.०७.२००२ च्या शासन निर्णयातील तपशिलाबाबत व पदांच्या वर्गीकरणाबाबत स्पष्टीकरण करण्याचे शासनाच्या विचाराधीन होते.

शासन निर्णय:-

दि. २.७.२००२ च्या शासन निर्णयातील तपशिलाबाबत व पदांच्या वर्गीकरणाबाबत या शासन निर्णयात खालीलप्रमाणे स्पष्टीकरण करण्यात येत आहे :-

अ. क्र.	पदांचा तपशील	स्पष्टीकरण	वेतनश्रेण्या	पदांचे वर्गीकरण
१.	ज्या पदोचे वेतन किंवा पदांच्या वेतनश्रेणीची कमाल मर्यादा रु. ११,५००/- पेक्षा कमी नाही, अशी पदे,	ज्या वेतनश्रेणीची कमाल मर्यादा रु. ११,५००/- व त्यापेक्षा अधिक आहे अशी पदे	रु. ७४५०-११५०० व वरील वेतनश्रेणीच्या पेक्षा जास्त वेतनश्रेणी असलेली पदे	गट - अ
२.	ज्या पदोचे वेतन किंवा पदांच्या वेतनश्रेणीची कमाल मर्यादा रु. ९,०००/- पेक्षा कमी नाही आणि रु. ११५००/- पेक्षा कमी आहे, अशी पदे,	ज्या वेतनश्रेणीची कमाल मर्यादा रु. ९००० ते ११४९९ या दरम्यान आहे अशी पदे,	१. ११५००-१७५-९००० २. ६०००-१७५-९८५०-१५०-१०००० ३. ६५००-२००-१०५०० ४. ७२२५-२२५-११०५० ५. ७४५०-२२५-११०५०	गट - ब
३.	ज्या पदोचे वेतन किंवा पदांच्या वेतनश्रेणीची कमाल मर्यादा रु. ४४००/- पेक्षा कमी नाही आणि रु. ९००० /- पेक्षा कमी आहे, अशी पदे,	ज्या वेतनश्रेणीची कमाल मर्यादा रु. ४४००/- ते रु. ८९९९ या दरम्यान आहे अशी पदे,	१. २७५०-४४०० २. ३०५०-४५९० ३. ३२००-४९०० ४. ४०००-६००० ५. ४५००-१२५-७००० ६. ५०००-८०००	गट - क
४.	ज्या पदोचे वेतन किंवा पदांच्या वेतनश्रेणीची कमाल मर्यादा रु. ४४००/- पेक्षा कमी आहे, अशी पदे,	ज्या वेतनश्रेणीची कमाल मर्यादा रु. ४३९९/- व त्यापेक्षा कमी आहे अशी पदे,	१. २६५०-४००० २. २६१०-४००० व सदरहू वेतनश्रेणी पेक्षा कमी वेतनश्रेणी असलेली पदे	गट - ड

12. In view of the said G.R. dated. 27.05.2016, the post having pay scale of Rs. 4400-8999 has been treated as Group-C post and the post having pay scale of Rs. 9000-11499 has been classified under Group-B post. Deceased Rajusing Rajput was getting salary in the pay scale of Rs. 5500-175-9000. In view of the said G.R., the post of PSI held by the Rajusing Rajput comes under the Group-B category. Since the post of PSI is Group-B post, in view of the G.R. dated 27.05.2016, the heirs of such officer cannot claim benefit of the scheme for appointment on compassionate ground on the basis of G.R. dated 22.08.2005. The respondent No.

3 has rightly considered the said point and informed the applicant in that regard by the impugned communication dated 04.02.2017. There is no illegality in the impugned order issued by the respondent No. 3. The deceased Rajusing Rajput was Group-B employee in view of the G.R. dated 27.05.2016 and therefore, his legal heirs are not entitled to get appointment on compassionate ground in view of the provisions of the G.R. dated 22.08.2005. I find no illegality in the impugned communication / order and therefore, no interference therein at the hands of this Tribunal is called for.

13. I have gone through the decision rendered by the Hon'ble High Court of Judicature at Bombay Bench at Aurangabad in **W.P. No. 5440 of 2009** in case of **Dinesh S/o Shamrao Sonawane Vs. The State of Maharashtra and Ors.** decided on 05.02.2010 cited by the learned Advocate for the applicant. There is no dispute regarding the settled principles laid down therein. But after the said decision, the Government had issued the G.R. dated 27.05.2016 and clarified the classification of the employees made by it in four groups i.e. Group-A to D. Therefore, there is no ambiguity/confusion regarding the classification of the employees in Group-A to D category. Therefore, in my view, the judgment cited by the learned Advocate for the applicant is not much useful

to the applicant. Therefore, I do not find force in the submissions advanced by the learned Advocate for the applicant in that regard.

14. As discussed above, the respondent No. 3 has rightly rejected the application of the applicant on the ground that deceased Rajusing Rajput was serving as PSI at the time of his death and the said post falls under Group-B category and therefore, the applicant is not entitled to get appointment on compassionate ground. The impugned order cannot be said to be illegal and therefore, no interference is called for in it. There is no merit in the present O.A. Consequently, the O.A. deserves to be dismissed.

15. In view of the discussions in the foregoing paragraphs, the O.A. stands dismissed with no order as to costs.

PLACE : AURANGABAD.
DATE : 12.02.2019.

(B.P. PATIL)
MEMBER (J)

KPB S.B. O.A. No. 934 of 2017 BPP 2019 Compassionate appointment