

ORAL ORDER

Heard Shri Krishna P. Rodge, learned counsel for the applicant and Smt. Sanjivani Deshmukh-Ghate, learned Presenting Officer for the respondent authorities.

2. The applicant has preferred the present Original Application seeking quashment of the order dated 8.7.2019 passed by the Collector, Nanded and Communication dated 15.7.2019 received to the applicant under the signature of respondent No. 4. Applicant is also claiming appointment on compassionate ground as and when his turn according to waiting list will come. Father of the applicant was working on the post of Grahpal, which is admittedly Class-III post. He died on 14.8.2010 while in service. At the relevant time deceased Government servant was posted at Kinwat, which is Naxalit Affected Area. On the death of the Government employee, the applicant filed application on 18.8.2010 seeking appointment on compassionate ground.

3. It is the contention of the applicant that the name of the applicant was duly entered in the waiting list of the candidates held eligible to be given appointment on compassionate ground. It is further contention of the applicant that in the year 2018

after having noticed that the name of the applicant has disappeared from the waiting list, the applicant requested the respondents for maintaining his name in the said list vide his communication dated 19.3.2018 (Exhibit 'A-5'). It is further the contention of the applicant that subsequently he came to know that his request for compassionate appointment is not considered on the ground that his deceased father was Class-II employee and the compassionate appointment is provided only for the legal heirs of the Government employee falling in Class-III and Class-IV category.

3. Learned counsel for the applicant submitted that on presumption that deceased father of the applicant namely Purushottam Chintaman Rohankar was at the relevant time i.e. on the date of his death was working as Class-II officer, the appointment on compassionate ground is refused to the applicant. Learned counsel submitted that since father of the applicant at the relevant time was working in the Naxlite Affected Area, he was getting one-step promotional scale i.e. of the post of Assistant Project Officer, which is Class-II post. Learned counsel submitted that the deceased father of the applicant was never promoted to the post of Assistant Project Officer and lastly he worked on the post of Grahpal and at the

relevant time, he was discharging the duties as Grahpal, though he was getting pay scale applicable to the Assistant Project Officer since he was working in the Naxalite Affected Area.

4. Learned counsel for the applicant submitted that the respondents have thus wrongly deleted the name of the applicant from the waiting list of the candidates held eligible for giving appointment on compassionate ground. He, therefore, prayed for setting aside the aforesaid communication and sought directions against the respondents to re-include name of the applicant in the waiting list and to give appointment to the applicant on compassionate ground. Learned counsel for the applicant further pointed out that subsequently the State Government has resolved to hold the legal heirs of the employees/ officers working on Class-I & Class-II post also entitled on certain grounds to receive the appointment on compassionate ground.

5. The Original Application is resisted by the respondents. Shri M.P. Gude, learned Presenting Officer appearing for the respondents authorities reiterated the contentions raised in the affidavit in reply and brought to my notice the averments raised, more particularly in Paragraph Nos. 3, 4 & 5 of the affidavit in reply filed on behalf of the respondents. Learned P.O.

submitted that since the applicant on the date of his death was receiving the salary in the pay scale of Rs. 6500-10500, which is pay scale for the officers for Class-II, the respondents have rightly deleted the name of the applicant from the waiting list of the candidates held eligible for receiving the appointment on compassionate ground.

6. I have duly considered the submissions advanced by the learned counsel appearing for the applicant and learned Presenting Officer appearing for the respondents.

7. As has come on record that father of the applicant namely Purushottam Chintaman Rohankar was working on the post of Grahpal and died while in service on the said post of Grahpal. It is not in dispute that Grahpal is a Class-III post. It is not the case of the respondents that deceased father of the applicant at any point of time was promoted to the post of Assistant Project Officer. It is further not in dispute that father of the applicant died while in service and at that time was working at Kinwat, which is Naxalite Affected Area. It is further not in dispute that deceased Purushottam Rohankar was receiving the salary because of the benefit extended to the Government employees working in Naxalite Affected Area in the next higher pay scale i.e. of the Assistant Project Officer, he was thus getting salary in

the pay scale of Rs. 6500-10500. However, merely because deceased Purushottam Rohankar was receiving the salary in the pay scale applicable to the post of Assistant Project Officer, which is Class-II post, deceased Purushottam Rohankar cannot be held to be working on Class-II post at the relevant time. Such interpretation made by the respondents is apparently unsustainable. Deceased Purushottam Rohankar at that time was also Class-III employee. It is thus, evident that for wrong reason the respondents have rejected the request of the applicant and have wrongly deleted the name of the applicant from the waiting list in the year 2019 because of which the applicant is constrained to approach this Tribunal. The Original Application, therefore, deserves to be allowed. Hence, the following order: -

ORDER

The respondents shall re-include the name of the applicant in the waiting list maintained of the candidates eligible to be appointed on compassionate ground.

(ii) The respondents further shall consider the seniority of the applicant for such appointment from the date on which his name was entered in the waiting list and issue the order of appointment as and when his turn comes commensurating his educational qualification and having regard to the Government Resolution in this regard.

(iii) The Original Application stands allowed in the aforesaid terms.

(iv) There shall be no order as to costs.

VICE CHAIRMAN

O.A.NO.949-2022 (SB)-2022-HDD-compassionate appointment