

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD

ORIGINAL APPLICATION NO. 496 OF 2012

DIST. : NANDED

Sumedh s/o Dhondiba Waghmare,
Age 20 years, Occ. Nil,
R/o Gaikwad Galli, Mukhed,
Tq. Mukhed, Dist. Nanded.

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APPLICANT

VERSUS

1. The State of Maharashtra,
Notice to be served to Presenting
Officer, Aurangabad.
2. The Chief Forest Officer,
Regional Officer, in front of
S.S.C. Board, Station Road,
Aurangabad.
3. The Deputy Forest Officer,
Nanded, Dist. Nanded.

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RESPONDENTS

APPEARANCE : Shri K.M. Nagarkar, learned Advocate for the
applicant.

: Shri N.U. Yadav, learned Presenting Officer for
respondents.

CORAM : HON'BLE SHRI J. D. KULKARNI, MEMBER (J)

J U D G M E N T

(Delivered on this 27th day of January, 2017)

1. Heard Shri K.M. Nagarkar, learned Advocate for the applicant and
Shri N.U. Yadav, learned Presenting Officer for respondents.

2. The applicant is a son of Shri Dhondiba Tukaram Waghmare. Said Dhondiba Waghmare was working in the office of res. nos. 2 & 3 as a Forest Guard, but unfortunately died on 29.4.1996. The applicant's mother Smt. Sushilabai Dhondiba Waghmare preferred an application for compassionate appointment on 17.9.1996 and her name was also registered in the waitlist of the candidates to be appointed on compassionate ground.

3. The respondent authorities, however, communicated to Smt. Sushilabai that as per G.Rs. dated 22.4.2008 & 23.4.2008 she had crossed age of 40 years and, therefore, she was not qualified for being appointed on compassionate ground and her name was deleted from the said list. The applicant was minor at that time.

4. The date of birth of the applicant is 26.1.1986 and he became major on 26.1.2004. Immediately, after attaining the majority, the applicant applied for compassionate appointment on 1.9.2004. The applicant filed number of applications such as on 1.9.2004, 18.10.2007, 18.2.2008, 27.3.2008, 3.7.2008, 18.8.2008, 25.8.2009, 25.8.2009 & 1.10.2009, however, his claim for compassionate appointment has not been considered. The applicant was, therefore, constrained to file this original application. The applicant has prayed for directions to the res. nos. 2 & 3 to consider his claim for appointment on compassionate ground and to take a decision on his various representations.

5. The res. no. 1 has filed affidavit in reply. It is stated that as per the Govt. Resolution issued by the Government, the candidate up to 40 years of age can be considered for compassionate appointment. The applicant's mother, though found place in the waitlist of the candidates to be appointed on compassionate ground, her name was deleted since she has crossed the age of 40 years and thus she has become disqualified.

6. The learned Advocate for the applicant has submitted that the applicant has attained the majority on 26.1.2004 and immediately thereafter on 1.9.2004, he has applied for compassionate appointment. This seems to be an admitted fact. The applicant has, therefore, applied within one year after attaining the majority.

7. The learned Advocate for the applicant has invited my attention to the G.R. dated 11.9.1996. The relevant portion of the said G.R. is as under :-

%o 'सेवेत असतांना दिवंगत झालेल्या किंवा दुर्धर व्याधीमुळे अकाली सेवानिवृत्त झालेल्या कर्मचा-यांच्या कुटूंबातील अज्ञान वारसदाराच्या बाबतीत एकाने सज्ञान म्हणजे १८ वर्षांचा झाल्यावर एक वर्षाच्या आत या चोजनेखाली नोकरीसाठी अर्ज करावा' हे आदेश १ मार्च, १९९६ पासून अंमलात येतील.+

8. Even as per the G.R. dated 22.8.2005, an application for compassionate appointment can be made within one year from the date of death of the Government employee. Accordingly, the applicant's mother seems to have applied and her name was also included in the wait list of the candidates to be appointed on compassionate ground. Her name was, however, deleted on the ground that she has crossed the age of 45 years. It is material to note that the said age limit was extended up to 45 years by the Government. As per the G.R. dated 20.5.2015, the competent authority has power to extend the limitation for applying for the appointment on compassionate ground in case of a minor wards to the further period of 2 years (total 3 years) from the date of attaining the majority.

9. In the present matter, admittedly the applicant was minor when his father died and, therefore, his independent right to apply for compassionate appointment cannot be taken away merely because his mother's application was rejected on technical ground. The applicant is not requesting for substitution of his name in place of his mother's name in the waitlist. The right of the applicant is independent right and he has rightly applied within one year from the date of attaining the majority and, therefore, his claim should have been considered.

10. The learned Advocate for the applicant has placed reliance on the judgment of Hon'ble Bombay High Court, Bench at Aurangabad in writ

petition No. 8047/2011 on 17.1.2012 [PRAVIN BABASAHEB SHEKADE VS. STATE OF MAHARASHTRA] [2012 (12) LJSOFT 623].

In the said case, the petitioner's father was Constable and died while in service. The petitioner was studying in 5th standard at that time and there was voluminous correspondence by his mother to the appropriate authorities, whereby she requested that her son be considered for compassionate appointment on attaining the age of 18 years. Considering the voluminous correspondence immediately after the death of applicant's father, the respondents were directed to appoint the petitioner on compassionate ground on any suitable post commensurate with his education.

11. In the present matter, the applicant has applied immediately after attaining the majority and, therefore, it was necessary for the respondents to consider his case. The respondents, however, did not take any action. In view of discussion in foregoing paragraphs, I pass the following order :-

ORDER

- (i) The original application is partly allowed.
- (ii) The res. nos. 2 & 3 are directed to consider the claim of the applicant for compassionate appointment and to decide his various representations such as 1.9.2004, 18.10.2007,

18.2.2008, 27.3.2008, 3.7.2008, 18.8.2008, 25.8.2009,
25.8.2009 & 1.10.2009 (Exh. C collectively).

- (iii) The said decision shall be taken by the concerned respondent on the said representation within a period of 3 months from the date of this order and the same be communicated to the applicant in writing.

There shall be no order as to costs.

MEMBER (J)