

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

ORIGINAL APPLICATION NO 1022 OF 2021

DISTRICT : PUNE

1. Smt Ujwala K. Anvekar,)
Occupation – House Wife,)
2. Shri Omkar Kishor Anvekar,)
Occ-Education,)
Add: Flat No. 2, Shriram Society,)
At & Post Rajgurunagar,)
Near Civil Court, Tal-Khed,)
Dist-Pune 410 505.)...**Applicant**

Versus

1. The State of Maharashtra)
Through the Principal Secretary,)
Ministry of Agriculture,)
Mantralaya, Mumbai 400 032.)
2. Commissioner of Agriculture,)
Maharashtra State,)
Pune 411 001.)
3. Divisional Joint Director,)
Agriculture, Pune Region,)
Pune 411 005.)
4. District Superintendent,)
Department of Agriculture,)
Pune District, Pune 411 005.)

5. Sub Divisional Agricultural Officer,)
Rajgurunagar, Tal-Khed,)
Dist – Pune 410 505.)
6. District Collector,)
Pune District, Pune 411 001.)...**Respondents**

Shri M.B Ghule, learned advocate for the Applicant.

Shri A.J Chougule, learned Presenting Officer for the Respondents.

CORAM : Mrs Medha Gadgil (Member) (A)

RESERVED ON : 27.06.2022

PRONOUNCED ON : 13.07.2022

J U D G M E N T

1. The applicant challenges the impugned order dated 25.2.2019, rejecting her application for compassionate appointment on the ground that she has completed 45 years of age.

2. The applicant prays as under:-

a. To quash and set aside the communication letter dated 23.2.2021 by the Desk Officer, Government of Maharashtra, denying the job of Clerk to the Applicant no. 2 on compassionate ground.

b. To direct the Respondent no. 1 (i.e. Ministry of Agriculture, M.S) to consider the recommendation submitted by the Administrative Officer, Commissionerate of Agriculture, Maharashtra State, Pune, through the communication letter dated 23.10.2022 (Exh. Z2) to Respondent no. 1 to appoint the Applicant No. 2 as a Clerk in place of his mother due to her age oldness, on the compassionate ground **as a special case**, from the date of his application and in pursuant to educational qualification

and knowledge of information technology, as per the provisions of the G.R dated 21.9.2017 of the Government of Maharashtra.”

3. Brief facts of the case are as under:-

The applicant No. 1 is the wife of late Kishor Narhar Anvekar, who worked as a Clerk in the Agriculture Department, on the same post under S.D.O, Rajgurunagar, Dist-Khed. He unfortunately expired on 8.3.2006. Applicant no. 1 submitted an application for a suitable job on 28.7.2006 on compassionate ground to the Sub Divisional Agriculture Officer, Rajgurunagar. This letter was forwarded to the District Superintendent Agriculture Officer, Pune. However, the applicant changed her application and applied for the post of Peon on compassionate grounds via letter dated 26.3.2009. Applicant states that she had been in receipt of communication letter dated 6.4.2009 from the District Superintendent Agricultural Officer, Pune, to Divisional Joint Director, Agriculture, Pune Region, Pune. Thus, it is seen that the applicant no. 1 submitted two applications one for the post of Clerk, Class-III and second for the post of Peon, Class-IV. However, her name was not cancelled from the waiting list of Clerks. As per the Government G.R dated 21.9.2017 Respondent no. 3, deleted the name of the applicant no. 1 from the wait list in Class-III cadre as she has completed 45 years of age. Since her name was not deleted from the waiting list of Clerk the cut-off age of 45 years on 28.6.2016 was applicable.

4. In view of these facts, the Administrative Officer, Agricultural Commissioner, Pune, sent a letter to the Desk Officer, Agriculture and Animal Husbandry, requesting that since nobody in the family has been given the job on compassionate ground, they may consider the request of her son Mr Omkar Anvekar in place of her

mother, when his father expired on 8.3.2006 and at that time Mr Omka Navkear was only 9 years old.

5. Learned counsel for the applicant further stated that Mrs Anvekar's application for the post of Peon dated 2.2.2011 was not received in their office. Since no action was taken on this proposal for appointment as Peon and her name continued in the waiting list of Clerks, she got disqualified after the age of 45 years. Subsequently, on 30.9.2020 her son Mr Omkar Anvekar applied for the post of Clerk in his father's place. Thus, there was a lack of communication between the District Agriculture Officer and the Divisional Agriculture Officers. Learned counsel for the applicant further points out that the Respondent no. 3, Divisional Joint Director, Agriculture, informed the applicant no. 1 Smt Ujwala K. Anvekar, that she is not eligible to be given appointment as she has completed 45 years of age on 28.6.2016. This was informed by letter dated 25.2.2019.

6. Learned counsel for the applicant relied on the judgment dated 27th October, 2021 of the Hon'ble Bombay High Court, Aurangabad Bench in W.P 3342 of 2018, C.S Bhoi Vs. The State of Maharashtra & Ors, wherein the Hon'ble High Court has delivered a similar judgment and directed the Education Officer in that case to give approval to the compassionate appointment to the Petitioner therein.

7. Learned P.O submitted that this Original Application should not be entertained, because as per G.R of G.A.D dated 21.9.2017, the applicant is not entitled to be granted appointment on compassionate grounds.

8. However, this case is a peculiar one as the applicant No. 1 has initially applied for the post of Clerk on compassionate ground and later on willingly changed her preference to that of Peon on 2.2.2011. However, this was not taken on record and her name was not removed from the waiting list of Clerks and finally she reached the age of 45 years on 28.6.2016.

9. Perused the G.R dated 21.9.2017. This G.R does not come in the way in view of the peculiar circumstances of the case since the applicant has been denied her right to be appointed as Peon after having changed her preference only because her name was not deleted from the waiting list of Clerks and added to that of Peon. Moreover, the family is claiming only one post on compassionate grounds which have been denied to them. The Respondents are therefore directed to consider the name of her Son Mr Omkar Anvekar for the post of Clerk on compassionate grounds.

10. In view of the above, the Respondents are directed to consider the case of son, i.e. Applicant no. 2, Mr Omkar Anvekar, for the post of Clerk on compassionate grounds within a period of three months from the date of this order.

11. With the above directions, the Original Application stands disposed of.

SD/-
(Medha Gadgil.)
Member (A)

Place : Mumbai
Date : 13.07.2022
Dictation taken by : A.K. Nair.