

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 189 of 2019 (S.B.)

- (1) Mukeshsingh Kuwarsingh Naikane, aged about 32 years, Occ. Nil, R/o Kochewahi, Post Banathar, Tah. & Dist. Gondia.
- (2) Parameshwar Holiram Paradhi, aged about 33 years, Occ. Nil R/o Chiramantola, Post. Parawada, Tah. & Dist. Gondia.
- (3) Mahendra Zolan Paradhi, aged about 42 years, Occ. Nil, R/o Raraswada, Tah. & Dist. Gondia.
- (4) Someshwar Anantram Rahangadale, aged about 37 years, Occ. Nil, R/o Rajegaon, Dist. Gondia.
- (5) Rakesh Purushottam Bagade, aged about 34 years, Occ. Nil, R/o Khairbandha, Post. Dawaniwada, Tah. & Dist. Gondia.
- (6) Likhiram Kolhu Meshram, aged about 41 years, Occ. Nil, R/o Changera, Tah. & Dist. Gondia.

Applicants.

Versus

- 1) The State of Maharashtra,
Water Resources Department, Mantralaya,
Mumbai through its Secretary.
- 2) The Collector, Gondia.
- 3) Chief Engineer, Water Resources Department,
Sinchan Seva Bhavan, Civil Lines, Mantralaya.
- 4) The Superintending Engineer, Command Area
Development Authority, Ajani, Nagpur.
- 5) The Superintending Engineer, Bhandara
Irrigation Circle, Bhandara.

- 6) The Executive Engineer, Bagh Itiadh Division,
Gondia.
- 7) The Executive Engineer, Gondia Irrigation Division,
Gondia.

Respondents.

**Shri Sayajee Jagtap, Advocate for the applicants.
Shri S.A. Sainis, learned P.O. for respondent nos.1 and 2.
Shri H.D. Marathe, Advocate for respondent nos.3 to 7.**

**Coram :- Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated :- 21/12/2022.

JUDGMENT

Heard Shri Sayajee Jagtap, learned counsel for the applicants, Shri S.A. Sainis, learned P.O. for respondent nos.1 and 2 and Shri H.D. Marathe, learned counsel for respondent nos. 3 to 7.

2. The case of the applicants in short is as under –

The employees namely Mukeshsingh Kuwarsingh Naikane and others were working in the Irrigation Department on daily wages. They died before they brought on CRTE. After their regular services as per the Kalelkar Award, the applicants applied for appointment on compassionate ground in place of deceased employees. To show the names and date of death in the order of CRTE and application for appointment on compassionate ground, the following chart is given as under –

Petr. No.	Name of Applicants	Name of Applt's. Father (Employee)	Employee died on	Date of Super-annuation	CRTE Order Date	CRTE effect Date	Appl't's. Appln Date
1	2	3	4	5	6	7	8
1	Mukeshsingh	Kuwarsingh Naikane	15.05.2004	12.11.2008	01.09.2015	01.01.1996	15.03.2016 (6 ½ month from Col.7)
2	Parameshwar	Holiram Paradhi	16.08.2005	07.11.2008	01.09.2015	01.01.1989	15.03.2016 (6 ½ month from Col.7)
3	Mahendra	Zolan Paradhi	16.02.2009	07.10.2009	15.10.2015	01.01.1991	15.03.2016 (5 month from Col.7)
4	Someshwar	Anantram Rahangadale	22.06.2010	15.12.2011	01.09.2015	01.01.1983	15.03.2016 (6 ½ month from Col.7)
5	Rakesh	Purushottam Bagade	18.05.2005	27.11.2016	11.04.2011	01.10.1992	14.12.2011 (8 month from Col.7)
6	Likhiram	Kolhu Meshram	23.09.2007	03.05.2013	01.09.2015	01.01.1998	15.03.2016 (6 ½ month from Col.7)

3. It is the contention of the applicants that they applied for appointment on compassionate ground, but their applications were not considered on the ground of considerable delay. Hence, they prayed to this Tribunal for direction to the respondents to appoint them on compassionate ground.

4. The respondents have strongly opposed the O.A. on the ground that deceased employees died in the year 2004,2005,2007,2009 and 2010, but the applicants applied in the year 2011 & 2016. As per the G.R. dated 21/09/2017, the application for appointment on compassionate ground shall be made within a period

of one year from the date of death of deceased employee. All the applicants applied in the year 2011 & 2016. They have not applied within one year and therefore they cannot claim for appointment on compassionate ground.

5. Heard Shri Sayajee Jagtap, learned counsel for the applicants. He has pointed out the Judgment of this Tribunal in O.A. No. 926/2020 and the Judgment of Hon'ble Bombay High Court, Bench at Aurangabad in the case of **Gopal Dayanand Ghate Vs. State of Maharashtra & Ors.**, in Writ Petition No.439/2020, decided on 20/10/2021.

6. Heard Shri H.D. Marathe, learned counsel for respondent nos. 3 to 7. He has pointed out the Judgment in the case of **Jagdish Pundlik Wagh & Ors. Vs. the State of Maharashtra & Ors.**, in Writ Petition No.3417/2022, decided on 27/06/2022. Shri Marathe, learned counsel has submitted that in the case of **Jagdish Pundlik Wagh & Ors. Vs. the State of Maharashtra & Ors.** the Hon'ble Bombay High Court has held that the applicant who applied after 20 years, is not entitled for appointment on compassionate ground, because, there is a considerable delay.

7. In the present case, the above chart shows that deceased employees were brought on CRTE in the year 2011 and 2016.

Though they died before they brought on CRTE, but their regular services started from the date of the order of CRTE as per Kalelkar Award. After they brought on CRTE, immediately within one year they have applied for appointment on compassionate ground. All the deceased employees when they died were not regular employees, but after their death, their claims for regurgitation of services, were decided by the Government, they were brought on CRTE (Casual Regular Temporary Establishment) as per Kalelkar Award. Deceased employees became permanent employees after the order of CRTE. Therefore, the applicants became eligible to claim appointment on compassionate ground after the order of CRTE. Hence, the cited decision by the side of respondents in the case of **Jaquish Pundlik Wagh & Ors. Vs. the State of Maharashtra & Ors.,** is not applicable.

7. As per the GR of the 2017, it is the duty of the concerned department to guide the dependent of the deceased employee to apply for appointment on compassionate ground. Nothing is on record to show that the respondents have guided the applicants to apply within a prescribed time. Hence, the following order –

ORDER

(i) The O.A. is allowed .

(ii) The impugned order / communication dated 26/11/2018 issued by respondent no.5 is hereby quashed and set aside.

(iii) The respondent nos.1 to 5 are directed to include the names of applicants in the waiting seniority list for appointment on compassionate ground and provide them employment, as per rules.

(iv) No order as to costs.

Dated :- 21/12/2022.

dnk.

(Justice M.G. Giratkar)
Vice Chairman.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 21/12/2022.