

MAHARASHTRA ADMINISTRATIVE TRIBUNAL

NAGPUR BENCH NAGPUR

ORIGINAL APPLICATION NO. 640/2015

Sou. Piyush w/o Nitin Kawale,
(Ku. Piyush d/o Wamanrao Wanjari),
Aged about 32 years,
R/o Zilla Parishad Colony,
Ganeshpur, Bhandara,
Tah. and Distt. Bhandara. -----

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary,
Department of Water Supply and
Sanitation Department,
Mantralaya, Mumbai-440 032.
- 2) The Director, Ground Water Survey
And Development Department,
Bhujal Bhavan, Survey No.53-A/1/4.
Near Krushi Mahavidyalaya,
Wakadewadi, Shivaji Nagar, Pune.
- 3) The Dy. Director, Ground Water Survey and
Development Department, Maharashtra
Niyam Pradhikarn Building, A-Wing, Telankhedi,
Civil Lines, Nagpur. ----- **Respondents**

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1. Shri N.M. Zibhkate, Advocate for the applicant.
 2. Smt. S.V. Kolhe, Presenting Officer for respondents .

Coram:- J.D. Kulkarni : Vice-Chairman (J)

Dated : - 31/3/2017

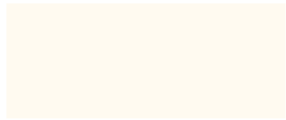


ORDER

Heard Shri N.M. Zibhkate, the learned Counsel for the applicant and Smt. S.V. Kolhe, the learned Presenting Officer for the Respondents.

2. The applicant is a daughter of Nitin Kawale who was serving as Surveyor with the Respondent no. 3. Shri Nitin Kawale died on 28.4.2003 while in service. On 11/12/2007, the applicant's brother filed an application for appointment on compassionate ground on account of death of Shri Nitin Kawale. The said application was accepted vide order dtd. 5/10/2007. The applicant's brother-Akshay Wamanrao Wanjari was appointed. However, Akshay was prosecuting 2nd year B.E. course and therefore, the applicant on 11/12/2007 requested the Respondent No. 3 to appoint her in place of her brother.

3. On 10/4/2008, the Respondent No. 3 had directed the applicant to submit an affidavit and some documents. In spite of such compliance, the order of appointment was not



issued. The applicant again moved an application for appointment on compassionate ground on 5/3/2013 and 23/7/2013 as per the G.R. dtd. 26/2/2013 and therefore the Respondent No. 2 vide letter dtd. 7/8/2013 asked the applicant to contact Respondent No. 3. However, no order of appointment was issued. The applicant again moved an application on 13/8/2015. However, the respondents failed to consider the applicant's claim.

4. During the pendency of the O.A. the applicant was informed vide letter dtd. 26/10/2015 as under :-

“ उपरोक्त संदर्भिय अर्जाच्या अनुषंगाने विषयांकित प्रकरणी आपणास कळविण्यात येते की, अनुकंपा तत्वावर शासकीय नोकरी, हा मयत कर्मचा-याचे वारसांचा हक्क नसून ती एक शासनाची सवलत आहे. अनुकंपा तत्वावरील नोकरीसाठी मयत कर्मचारी वामन ईश्वरदास वंजारी यांनी सादर केलेल्या प्रस्तावानुसार त्यांचे नाव अनुकंपा धारकाचे अनुकंपा तथा जिल्हाधिकारी कार्यालयातील सामायिक प्रतिक्षासूचीत नोंदविण्यात आले होते. अनुकंपाच्या प्रतिक्षा यादीत एकदा नोंदणी केलेले नाव बदलविण्याची तरतूद या योजनेत नाही.

यानंतर अनुकंपा तत्वावर कनिष्ठ लिपीक या पदावर शासन सेवेत रुजू होण्यासाठी श्री. अक्षय वामन वंजारी यांना आदेश क्रमांक ३०६८/०७ दि. ५.१०.२००७ द्वारे नियुक्ती आदेश देण्यांत आले होते. परंतु संबंधीत अनुकंपाधारक नियुक्तीचे ठिकाणी विहित कालावधीत रुजू झाले होते. त्यामुळे सदर नियुक्ती आदेश रद्द करून शासन निर्णयानुसार संबंधीताचे नांव अनुकंपा यादीतून आणि जिल्हाधिकारी कार्यालयाचे सामायिक प्रतिक्षा सूचीतून कमी करण्यात आले असून अनुकंपा तत्वावर यापुढे कोणतीही नेमणूक करता येणार नाही असे पत्र क्र. ३६२/०८ दि. ४.२.२००८ अन्वये परंतु संबंधीत श्री. अक्षय वामन वंजारी यांना कळविण्यात आले होते.

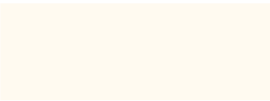
तदनंतरही सदर प्रकरणी आपण व श्री. अक्षय वामन वंजारी यांनी पत्र व्यवहार सुरुच ठेवलेला आहे. परिणामी या कार्यालयाचे पत्र क्र. उसंना/भूसविय/ प्रशायन/ आस्था /२/७७५/२०१४ दिनांक २४.३.२०१४ द्वारे दिवंगत कर्मचारी वा.ई. वंजारी यांचे वारसान म्हणून कुटूंबातील कोणतेही सदस्य अनुकंपातत्वावरील नोकरीसाठी पात्र नाही असे कळविण्यात आले आहे.

शासन निर्णय, साप्रवि. क्र.अकंपा-१०१३/प्र.क्र.८/आठ दि.२६.२.२०१३ नुसार दिवंगत कर्मचारी वा.ई. वंजारी यांचे वारसान म्हणून मुलगा हयात असल्याने विवाहीत मुलगी अनुकंपा योजनेच्या लाभासाठी पात्र नाही. याची नोंद घ्यावी.


5. The applicant, has therefore, claimed that the letter dtd. 26/10/2015 be quashed and set aside and the respondents be directed to issue appointment order in her favour considering her educational qualification.

6. The respondents have resisted the claim and submitted that Shri Wanjari has one son-Akshay and two married daughters including the applicant. Akshay applied for the compassionate appointment and his proposal was considered and not only that the appointment order was also issued in his favour on 5/10/2007. He was to join within 30 days . However, he did not join and in spite number of notices and time extended for joining twice, he did not join and therefore, the applicant cannot claim appointment on compassionate ground.

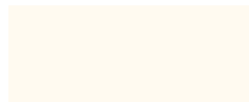
7. Admittedly, the appointment on compassionate ground is not a legal right and it is also not inheritable right. In the present case, the claim of compassionate appointment in view of death of an employee has already been considered



and accordingly the appointment order was issued in favour of applicant's brother-Akshay on 5/10/2007. He was appointed as a Junior Clerk and was directed to join within 30 days. He however, did not join and therefore, a notice was issued to him on 5/11/2007 and thereafter on 23/11/2007. However in spite of repeated chances given to him, he did not join and finally his appointment order was cancelled on 3/2/2008. All these facts were considered while rejecting the applicant's claim. The applicant was already intimated vide letter dtd. 3/5/2008 that her claim cannot be considered for appointment on compassionate ground. Thereafter on 26/10/2015, again the applicant was intimated that she was not entitled for appointment on compassionate ground. Though it was intimated to the applicant that her claim cannot be considered for appointment since she was married daughter and the son of deceased employee is alive, it is an admitted fact that the Govt. has now issued a G.R. that even the married daughters are entitled to claim compassionate appointment. However, that is not the issue here. In this case, the son of the deceased



employee was considered for appointment and was already appointed but he refused to accept the appointment and since the claim for compassionate appointment is not inheritable or as of right, the applicant's claim has been rightly denied. The applicant's claim has not been on the only ground that she cannot be considered being married daughter but also because appointment was offered to her brother who refused the appointment. Hence I do not find any merit in the claim. The Id. P.O. submits that applicant's father died in 2003, her brother is now Engineer, and already appointed in other service. Admittedly the circumstances at the time of death of Applicant's father may not be now existing. This aspect cannot be ignored coupled with the fact that applicant's brother refused appointment on compassionate ground and applicant is already married. Hence the following order :-



ORDER

The O.A. stands dismissed with no order as to costs.

Skt.



**(J.D. Kulkarni)
Vice-Chairman(J).**