

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No.1141 of 2021 (S.B.)

Atul S/o Darshan Kannake,
Aged about 27 years, Occ: Nil,
R/o Kannamwar Ward, New Colony Road,
Ballarpur, Tah. Ballarpur, District: Chandrapur.

Applicant.

Versus

1. The State of Maharashtra,
Through its Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai-440 032.
2. Chief Conservator of Forests,
Chandrapur Circle, Civil Lines,
Nagpur Road, Chandrapur-442401.
3. Conservator of Forest, (Transport and Marketing),
Ballarshah, Allapalli Road, Ballarshah,
District: Chandrapur.

Respondents.

Shri N.S. Warulkar, Advocate for the applicant.

Shri S.A. Sainis, learned P.O. for the respondents.

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

Dated :- 30/01/2024.

JUDGMENT

Heard Shri S.K. Bhattacharya, learned counsel holding for
Shri N.S. Warulkar, learned counsel for the applicant and Shri S.A.
Sainis, learned P.O. for the respondents.

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

The father of applicant namely Darshan Ramu Kannake was serving with respondent no.3 on the post of Vanpal / Van Major. He died on 23/07/2008. The mother of applicant applied as per the application dated 05/11/2009 to appoint her son after attaining the age of majority. The respondents have initially not entered the name of applicant in the waiting seniority list, but after due correspondence his name is entered in the waiting seniority list. But the name of applicant is not considered in the waiting seniority list of 2012, i.e., from the date of attaining the age of majority. Therefore, the applicant initially approached to the Hon'ble High Court, but when Hon'ble High Court pointed out the jurisdiction of this Tribunal. The Writ Petition was withdrawn and this O.A. is filed for the following reliefs –

“(8) That, this Hon'ble Tribunal be pleased to call the entire record and proceeding of impugned communication dated 07/01/2021 from the office of respondent nos.2 and 3 and after perusal of the same further be pleased to-

(1) Allow the present original application and quash and set aside the impugned communication dated 07/01/2021 issued by respondent no.2 (Annexure A1) as illegal and bad in law ;

(2) Further be pleased to direct the respondents to grant seniority to the applicant from the date of majority i.e. from 28/7/2012 and include his name at appropriate stage in the waiting list prepared for the candidates of compassionate appointment, in the interests of justice;

(3) grant any other relief which this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.

(9) During the pendency of the original application the applicant prays for following relief.

The applicant is not praying for any interim relief but he reserves his right to pray for as and when occasion arises.”

3. The O.A. is strongly opposed by the respondents. It is submitted that there is nothing in the G.R. to show that seniority should be given from the date of attaining the age of majority. The name of applicant is entered in the waiting seniority list from the date of his application and therefore the O.A. is liable to be dismissed.

4. During the course of submission, the learned counsel for applicant has pointed out the decision of the Hon'ble Bombay High Court, Bench at Nagpur in the case of ***Geeta wd/o R. Lad Vs. State of Maharashtra and Ano.,*** in Writ Petition No.3517/2022, decided on 02/01/2023. This decision is based on the decision of the Hon'ble Bombay High Court, Aurangabad Bench in Writ Petition No.6267/2018 in the case of ***Dnyaneshwar S/o Ramkishna Musane Vs. State of Maharashtra & Others.*** In that Judgment, Hon'ble Bombay High Court, Aurangabad Bench has held that the unreasonable restrictions imposed by the G.R. dated 20/05/2015 is liable to be removed and specific direction was given to the State Government.

5. The present case is not in respect of the substitution. The name of mother of applicant was not taken on the waiting seniority list. The mother of applicant had applied to the respondents stating that the service on compassionate ground be provided to her son after attaining the age of majority. The name of applicant is taken in the waiting seniority list from the date of application of the applicant.

6. The learned P.O. Shri Sainis has pointed out the decision of Hon'ble Bombay High Court in Writ Petition No.13932/2017, decided on 18/07/2018. The para-6 of the Judgment is reproduced below –

“(6) In view of the aforesaid, we modify the impugned judgment and order and direct the name of respondent No.2, Shubham V. More be included in the waiting list for compassionate appointment in Group - D category at the appropriate position taking into consideration the date of the respondents' application dated 11.02.2014. This means that the name of respondent No.2 shall be entered into waiting list as directed by the MAT, but not in place of respondent No.1 - his mother's name. Rather, the name of respondent No.2 will be entered in the said list by according it due seniority on the basis of application dated 11.02.2014.”

7. In view of the Judgment of the Hon'ble Bombay High Court in Writ Petition No.13932/2017, it is clear that seniority cannot be

given retrospectively by substituting the name. In the present case there is no question of any substitution, because the mother of applicant had not applied for service on compassionate ground for herself. It is not the case of applicant that name of his mother was taken in the waiting seniority list and therefore his name be substituted in her place. The application filed by his mother clearly shows that she requested the respondents to provide service to the applicant after attaining the age of majority. There is no question of any substitution. Moreover, as per the Judgment of the Hon'ble Bombay High Court in Writ Petition No.13932/2017, it is clear that even in case of substitution the name cannot be entered in place of his mother by substituting his name. The name of applicant is to be entered in the waiting seniority list from the date of application. Hence, the O.A. is without any merit. Therefore, the following order is passed-

ORDER

- (i) The O.A. is dismissed.
- (ii) No order as to costs.

Dated :- 30/01/2024.

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 P.A. : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 30/01/2024.