

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,

NAGPUR BENCH, NAGPUR.

ORIGINAL APPLICATION NO.218/2013.

Ishwar Bidesingh Rajput (Gaikwad),
Aged about 23 years,
Occ-Nil,
R/o At Sunderkhed, Buldana.

Applicant.

-Versus-

1. The State of Maharashtra,
Through its Secretary,
Public Works Department,
Mantralaya, Mumbai-32.
2. The Superintending Engineer,
Public Works Circle, Akola.
3. The Executive Engineer,
Public Works Department, Buldana.
4. The Sub-Divisional Officer,
Public Works Sub-Division No.2, Buldana.

Respondents.

Shri S.N. Gaikwad, the Ld. Advocate for the applicant.
Shri P.N. Warjekar, Ld. P.O. for the respondents.

**Coram:- B. Majumdar, Vice-Chairman and
Justice M.N. Gilani, Member (J).**

Dated:- 16th July, 2014.

Order

Per: Member (J)

Aggrieved by the communication dated 21.1.2013 whereby the respondent 1 refused to consider the case of the applicant on compassionate ground, this O.A. has been filed.

2. One Shri Videshi Manikrao Rajput serving on the post of Peon (Kaksha Sevak), Group-D died in harness on 29.10.2010. He left behind him his widow, three daughters and one son. The applicant being the son of the deceased, applied to the respondent 3 for his appointment on compassionate ground. After collecting various documents and information, the respondent 4

and through the respondent 3 submitted the proposal to the respondent 1. However, the proposal was rejected merely on the ground that it was submitted after one year of the death of the deceased.

3. The respondents 2 to 4 submitted reply. Factual matrix like death of the father of the applicant while in service if the respondents 3 and 4, the applicant submitting an application and the respondent 4 submitting necessary proposal, are not denied. It is stated that the applicant had submitted certificate of succession after a period of one year and hence particularly in terms of condition laid down in the G.R. dated 22.8.2005, request of the applicant has not been considered.

4. Annexure A-1 dated 21.2.2011 is a copy of application submitted by the applicant to the respondent 4. Alongwith an application, he annexed the documents like school leaving certificate, death certificate, heirship certificate, affidavit and no objection of other dependants. It seems that, the proforma of the information is prescribed and that was filled up by the applicant and submitted alongwith the application dated 21.2.2011. The affidavit was sworn in by the mother and three sisters of the applicant. This appears to be dated 16.11.2010. In that, it was spelt out that, in the event, the applicant gets employment, he would look after them. The copy of the ration card showing names of the family members of the deceased was also tagged with the application. Annexure A-2 is the communication dated 19.11.2011. This is addressed by the respondent 3 to the respondent 2. It appears that, the proposal for appointment of the applicant on compassionate ground dated 2.11.2011 was received from the respondent 4 and the same was being forwarded to the respondent 2. Annexure A-5 is the communication dated 21.2.2013. In that, the

applicant has informed the respondent 2 that he has already submitted the application alongwith accompaniments to the respondent 4. He categorically mentioned that just within four months of the death of his father, the application was submitted. What can be gathered from the communication dated 28.2.2013 (Annexure A-6) that, the certificate to the effect that no family members of the deceased are in Government service, was not submitted alongwith the application. The relevant portion in the communication is reproduced below:

“सामान्य प्रशासन विभाग दिनांक २२.०८.२००५ नुसार दिवंगत झालेल्या कर्मचा-यांच्या पात्र कुटुंबापैकी एकाच अनुकंपातत्वावर नियुक्ती साठीचा परिपूर्ण प्रस्ताव एक वर्षाच्या आत नियुक्ती प्राधीका-यांकडे सादर करणे आवश्यक आहे.त्यामुळे श्री ईश्वर बिंदेसिंग राजपुत यांचा अनुकंपातत्वावर नियुक्तीसाठीचा प्रस्ताव एक वर्षानंतर आलेला आहे. त्यामुळे श्री ईश्वर बिंदेसिंग राजपुत यांचे नाव अनुकंपातत्वावरील प्रतिका यादीमध्ये समाविष्ट करता येणार नाही”.

5. A perusal of documents produced on record prima facie reveal that just within four months of the death of the deceased, the application alongwith nine accompaniments was submitted to the respondent 4. In the proforma, there appears no column requiring certificate to the effect that no family member of the deceased is in Government service. This appears to be the reason for not submitting such certificate by the applicant alongwith his application. If at all it was necessary, it is not spelt out from the documents produced on record or even from the reply submitted by the respondents 2 to 4, as to when such certificate was demanded from the applicant and when he had produced it. Therefore, what emerges is that, delay, if any, occurred can be attributed to the office of the respondents 2 and 3. Knowing full well that the case of compassionate appointment needs urgent attention, the concerned official, seems to have sat over the matter and did not act promptly. It does not appeal to the reason that the applicant who was in need of employment particularly after the death of his father,

would have neglected to produce such certificates. It is pertinent to note that, promptly he made an application and also submitted number of documents alongwith it. In that view of the matter, applying one year limitation by relying upon the circular dated 22.8.2005, is totally unjust and not keeping in view the scheme floated by the Government to help the family of the deceased which is in distress owing to the death of the bread earner in the family. Moreover, it appears that the condition in the G.R. dated 22.8.2005 has been wrongly applied. This is evident after reading the relevant condition. The same is quoted below:

“अनुकंपा नियुक्तीसाठी पात्र कुटूंबियांकडून संबंधीत नियुक्ती प्राधीका-यांकडे अर्ज करण्याची सद्याची पाच वर्षाची मुदत कमी करून कर्मचारी दिवंगत झाल्याच्या दिनांकापासून एक वर्षाच्या मुदतीत कमी करणे आवश्यक आहे”.

6. It is spelt out from the above that the condition of one year is for submitting the application to the concerned officer and not for the department to send proposal to the Government. In the instant case, just within four months of the death of the deceased, the application was submitted alongwith nine documents. This is substantial compliance of the aforesaid condition.

7. In that view of the matter, the O.A. succeeds in the following terms:

- (i) The communication dated 21.1.2013 followed by further communication dated 12.2.2013 and 28.2.2013 (Annexures A-3 to A-6) are quashed and set aside.
- (ii) The respondents are directed to consider the case of the applicant for appointment on compassionate ground, as per rules.
- (iii) It is clarified that the respondents will be at liberty to examine the merits of the applicant's claim in the light

of the settled practice as well as parameters laid down
by the Apex Court in various decisions.

(Justice M.N.Gilani)
Member (J)

(B. Majumdar)
Vice-Chairman