

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 234 of 2020 (S.B.)

Nitun S/o Ramesh Bhagat,
aged about 30 years, Occ: Unemployed,
R/o Ambatoli Ward No.2, Aamgaon Road, Village: Fulchur,
Tq. & Dist. Gondia.

Applicant.

Versus

- 1] State of Maharashtra, through its Secretary,
Home Department, Mantralaya, Mumbai.
- 2] Director General of Police,
State of Maharashtra, Mumbai.
- 3] The Superintendent of Police,
Office at Gondia, Tq. & Dist. Gondia.

Respondents.

Shri A.B. Mirza, Advocate for the applicant.
Shri S.A. Sainis, learned P.O. for respondents.

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

Dated :- 12/06/2023.

JUDGMENT

Heard Shri A.B. Mirza, 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 Brother of applicant namely Dilip Ramesh Bhagat was
working as a Police Constable. He died on 08/11/2014 while working
in the naxalite affected area under the jurisdiction of Police Station,
Chichgad. The applicant is the brother of deceased Dilip Ramesh

Bhagat. The deceased Dilip Ramesh Bhagat had given family declaration at the time of joining his service. The applicant is one of the members of the family of the deceased.

3. The deceased Dilip was married to one Dipika Nema Das. After the death of Dilip, Dipika re-married with Pravin (Kumar) Phulak Das on 15/07/2017. The second husband of Dipika has adopted the son of deceased Dilip. The applicant applied for appointment on compassionate ground. His application is rejected on the ground that he is not entitled to get appointment on compassionate ground as per the G.R. dated 21/09/2017. He was informed by letter dated 01/02/2019 that the applicant is not entitled to get service on compassionate ground, because, the deceased Dilip was married and therefore the brother and sister are not entitled to get employment on compassionate ground as per the G.R. dated 21/09/2017. Hence, the applicant has filed the present O.A. for the following reliefs –

“(i) Quash and set aside the communications dated 29.10.2018, 01.02.2019, 28.02.2019 issued by the respondent No.3 (Annexure-A8);

(ii) Direct the respondent no.3 to consider applicant’s candidature for compassionate appointment due to demise of his elder brother Dilip Ramesh Bhagat Police Constable B.No.2133;

(iii) To direct the respondent No.3 to issue appointment order on compassionate ground in favour of the applicant ”

4. Heard Shri S.A. Sainis, learned P.O. for the respondents. The O.A. is strongly opposed by the respondents. It is submitted that as per the G.R. dated 21/09/2017 the applicant is not entitled to get employment on compassionate ground. Hence, the O.A. is liable to be dismissed.

5. Heard Shri A.B. Mirza, learned counsel for the applicant. He has pointed out the material documents. The learned counsel for applicant has submitted that the wife of deceased Dilip is already re-married with one Pravin (Kumar) Phulak Das. Her son is also adopted by her second husband. The learned counsel for applicant has submitted that the applicant was dependent on the deceased Dilip, therefore, he is entitled to get appointment on compassionate ground.

6. The guidelines are given by the Government for appointment on compassionate ground. The various G.Rs. were issued from the year 1994. All the G.Rs. are now consolidated in G.R. dated 21/09/2017. As per Clause (4) of the G.R. dated 21/09/2017 the following persons / members are entitled to get compassionate appointment. The Clause (4) of the G.R. dated 21/09/2017 is reproduced as below –

(४) अनुकंपा नियुक्तीसाठी पात्र कुटुंबिय:-

(अ) अनुकंपा तत्वावराल नियुक्तीसाठी खालील नमूद केलेले नातेवाईक पात्र राहतील व त्यापैकी एका पात्र नातेवाईकास नियुक्ती अनुज्ञेय राहिल.

(१) पती/पत्नी,

(२) मुलगा/मुलगी (अविवाहोत /विवाहोत), मृत्यूपूर्वा कायदेशीररित्या दत्तक घेतलेला मुलगा/मुलगी (अविवाहोत/विवाहोत)

(३) दिवंगत शासकाय कमचा-याचा मुलगा हयात नसेल किंवा तो नियुक्तीसाठी पात्र नसेल तर त्याची सून

(४) घटस्फोटित मुलगी किंवा बहोण, परित्यक्ता मुलगी किंवा बहोण, विधवा मुलगी किंवा बहोण,

(५) केवळ दिवंगत अविवाहोत शासकाय कमचा-यांच्या बाबतीत त्याच्यावर सवस्वी अवलंबून असणारा भाऊ किंवा बहोण (शासन निणय, दि. २६.१०.१९९४ व दि. १७.११.२०१६)

(आ) मृत अधिकारी/कमचा-यांच्या पति/पत्नी ने कोणाची अनुकंपा तत्वावर नियुक्ती करावी याबाबत नामांकन देणे आवश्यक राहिल. मृत अधिकारी/कमचा-यांचे पती/पत्नी हयात नसल्यास त्याच्या/तिच्या सव पात्र कुटुंबियांनी एकत्रित येऊन कोणाची नियुक्ती करावी याबाबत नामांकन करावे. (शासन निणय, दि. १७.०७.२००७).”

7. Deceased Dilip was married and therefore the applicant is not entitled as per Clause (4) of the G.R. dated 21/09/2017 to get employment on compassionate ground. In respect of consent given by wife of deceased, the documents are filed on record.

8. It is pleaded in the O.A. that second husband of Dipika adopted the son of deceased Dilip. Nothing is on record to show the adoption of the minor child. The rights of minor child cannot be

abandoned by his mother or father. The minor after becoming major, will be entitled for appointment on compassionate ground. The applicant is not entitled to get employment on compassionate ground as per the Clause (4) of the G.R. dated 21/09/2017. Hence, the O.A. is without any merit. Therefore, I pass the following order –

ORDER

The O.A. is dismissed. No order as to costs.

Dated :- 12/06/2023.

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 : 12/06/2023.

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