

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 478 of 2016 (SB)**

Ku. Yogita d/o Omprakash Joshi,  
aged about 31 years, Occ.—Nil,  
Residence of Balaji Park House no.159, Pimpalgaon Road,  
Yavatmal, District Yavatmal.

**Applicant.**

**Versus**

- 1) State of Maharashtra,  
through the Secretary,  
General Administration Department,  
Mantralaya, Mumbai-32.
- 2) Deputy Commissioner,  
Tribal Development Department,  
Amravati Division.
- 3) The Project Officer,  
Ekatomik Tribal Development Project,  
Pandharkawada, District Yavatmal.

**Respondents**

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**Mrs. Shital C. Deo & Mrs. Savita Upadhya, Advocates for the  
applicant.**

**Shri V.A. Kulkarni, P.O. for the respondents.**

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**Coram :- Hon'ble Shri J.D. Kulkarni,  
Vice-Chairman (J).**

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## **JUDGMENT**

**(Delivered on this 30<sup>th</sup> day of July,2018)**

Heard Mrs. S.C. Deo, learned counsel for the applicant and Shri V.A. Kulkarni, learned P.O. for the respondents.

2. The applicant Ku. Yogita d/o Omprakash Joshi is the daughter of deceased Shri Omprakash Ranglalji Joshi who was serving as Inspector in Tribal Development Department at Pandharkawada, i.e., in the office of respondent no.3. While in the service Shri Omprakash R. Joshi died on 16/12/2007. On 10/11/2008, his widow filed application and stated that her son be considered for compassionate appointment. Subsequently she filed another application on 10/11/2008 and submitted that her son's name was wrongly given since he was already in service from 2007 in Police Department and therefore instead of her son, the name of applicant i.e. her daughter be considered. Similar application was also moved by the applicant's brother Amit Omprakash Joshi and along with his application, the application filed by the applicant for compassionate appointment was also annexed.

3. From the record, it seems that the applicant's name was taken on the list of candidates to be appointed on compassionate ground and as seems from the office note dated 23/10/2015 at Annex-A-6 at page nos. 23 to 24 (typed copy at P.B. page nos. 25 to 27) that the applicant's name stands at sr.no.1 in the wait list and her seniority number was '22'. The office note also shows that the applicant's name was also recommended for appointment. However to the applicant's surprise, her claimed was rejected vide communication dated 24/02/2016 on the ground that she has not filed application for compassionate appointment within stipulated period. According to the applicant, said communication is illegal and therefore it be quashed and set aside and the respondent no.2 be directed to consider the applicant's claim forthwith for appointment on compassionate ground.

4. The respondent no.2 has filed reply-affidavit. It is stated that as exception by providing compassionate employment is carved out in order to remove the financial constraints of the bereaved family, who has lost its only bread earner and mere death of government employee in harness

does not entitle the family to claim compassionate appointment. It is stated that the applicant's brother Amit O. Joshi was already in employment since 2005 in the Police Department and the daughter, i.e., the applicant of the deceased employee was married with one Shri Vijay Gorla. It is stated that she first submitted application for compassionate appointment on 16/10/2015, i.e., not within one year from the date of death of the employee.

5. The learned counsel for the applicant submits that the application has not been rejected on the ground that the applicant's brother was already given employment, but on the ground that application was not filed within one year from the date of death of the employee. It is, therefore, stated that the said reason for not accepting the application is wrong. Perusal of the application filed by the applicant's mother is at P.B. page no.13 shows that the applicant's mother for the first time on 10/11/2008 requested the Additional Commissioner of Tribal Development Department, Amravati that earlier she has filed application for compassionate appointment in the name of her son, but her son's name was wrongly given and therefore instead of her son, her daughter Yogita O. Joshi be

considered. Shri Omprakash R. Joshi died on 16/12/2007, whereas, the application is at Annex-A1 has been filed on 10/11/2008, i.e., well within one year from the date of death of employee. The second application is filed by the applicant's brother as per Annex-A-2 at P.B. page no.15 in which he had stated that his sister Yogita Omprakash Joshi, i.e., the applicant shall be considered for compassionate appointment. Along with this application, he has also filed Yogita's application. Copy of the applicant Yogita's application is at P.B. page no.17 which also bears date 10/11/2008. Receipt of these applications is not denied by the respondent authorities. The office note dated 23/10/2015 (Annex-A-6,P-25) clearly shows that the applicant, i.e., Ku. Yogita O. Joshi's application was considered and she was kept on waiting list and her seniority number was '22'. In the said office note the applicant's claim was recommended for compassionate appointment. In such circumstances for the first time saying that the application was not filed within period of one year from the date of death of applicant's father cannot be accepted. Perusal of the note dated 23/10/2015 makes it crystal clear that the applicant's name was recommended.

6. The applicant has also placed on record another office note as per Annex-A-10 at P.B. page nos.60 and 61 and its typed copy at page nos. 62 to 64 (both inclusive). This is for the first time the office came to the conclusion that the applicant's application was not received within one year. The said note shows that an endorsement was made as under :-

*“first inform all the rejected applicants about the reason for rejection and then if they apply for reconsideration, then it should be sent to ”*

7. Though the said note is incomplete, the recommendation shows that if the candidates are aggrieved by the decision, they were entitled to file representations for reconsideration. The applicant seems to have accordingly represented by filing representation as per Annex-A-12 on 3/3/2016 and in the said representations she has clearly stated that she had filed the application on 10/11/2008 and it was filed within one year from the death of her father and therefore her application shall be re-considered. It is not known why the same was not re-considered.

8. The learned P.O. submits that the applicant's brother was already in service and therefore the applicant is

not entitled to employment on compassionate ground. It is however material to note that the application is not rejected on that ground and on the contrary it was rejected on technical ground that application was not filed within one year from the date of death of the employee. Even that limitation of one year can be ignored and condoned in proper cases by the Government and therefore the same ground is not legal.

9. From the record, it is clear that the application was filed within one year from the date of death of the applicant's father. The applicant has stated that though her brother is in service, he is not residing with her mother and that she is maintaining her mother. This was stated in the application dated 10/11/2008 by the applicant. Considering all these aspects, I am therefore satisfied that the rejection of the application for appointment on compassionate ground only on the ground that the said application was not filed within limitation is not correct. Hence, the following order:-

### **ORDER**

The impugned letter dated 24/02/2016 issued by the respondent no.2 rejecting the applicant's claim for employment on compassionate ground on the ground that she

has not filed application within limitation period is quashed and set aside. The respondent no.2 is directed to consider the claim of the applicant on compassionate ground for employment on a suitable post and to take decision thereon. Such decision shall be taken within three months from the date of passing of this order. No order as to costs.

**Dated :- 30/07/2018.**

dnk.

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