

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 528 of 2021 (S.B.)

Nidhi Rajendra Pol,
aged about 22 years, Occupation : Nil,
R/o Behind Bus Stand, Arvi, Tah. Dist. Wardha.

Applicant.

Versus

- (1) The State of Maharashtra,
through its Additional Principal Secretary,
Public Health Department, Mantralaya, Mumbai-32.
- 2) The director of Health Services-2,
Old Central Building, Pune.
- 3) The Deputy Director of Health Services,
Nagpur, Mata Kacheri, Near Diksha Bhumi, Nagpur
Tah. and Dist. Nagpur.
- 4) The Assistant Director (Malaria),
Health Services, Mata Kacheri, Nagpur.
- 5) The District Malaria Officer, Wardha,
Tah. and Dist. Wardha.

Respondents.

Shri S.N. Gaikwad, Advocate for the applicant.
Shri S.A. Sainis, learned P.O. for respondents.

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

Dated :- 09/01/2023.

JUDGMENT

Heard Shri S.N. Gaikwad, 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 Rajendra Madhaorao Pol was working on the post of Health Assistant at Sub District Hospital, Arvi, Dist. Wardha. He died on 11/12/2016 while he was in service. The applicant moved an application dated 12/05/2017 for appointment on compassionate ground along with all necessary documents. At the relevant time, the applicant was eligible for appointment for Class-III cadre, therefore, she made request for appointment on the post of Group-C cadre.

3. The respondent no.5, the District Malaria Officer, Wardha submitted application on 14/06/2017 to the respondent no.3, the Deputy Director of Health Services, Nagpur. The said proposal was returned on the ground that there are some lacunas in the proposal. The District Malaria Officer, Wardha submitted complete proposal on 14/06/2017. On 12/06/2019 the respondent no.3, the Deputy Director of Health Services, Nagpur informed the applicant that the application was not made within one year for appointment on compassionate ground and therefore her name cannot be included in the waiting seniority list.

4. The applicant made representation on 27/12/2019 to the Assistant Director of Health Services (Malaria), Nagpur. The Assistant Director of Health (Malaria), Nagpur informed by letter dated 20/11/2019 stating that as per Para 10 (A) of the G.R. dated

21/09/2017, her name cannot be included in the waiting seniority list because application was not made within one year. On 16/01/2020 the Assistant Director of Health Services (Malaria), Nagpur requested the Deputy Director of Health Services, Nagpur to include the name of applicant in the waiting seniority list. It was informed to the Deputy Director of Health Services, Nagpur stating that the delay was caused by the department and there was no delay on the part of applicant to apply for appointment on compassionate ground. Again, the respondent no.3, the Deputy Director of Health Services, Nagpur informed the Assistant Director of Health Services (Malaria), Nagpur by letter dated 04/02/2020 stating that the name of applicant cannot be included in the waiting seniority list in view of the G.R. of 2017. Hence, the applicant approached to this Tribunal.

5. Heard Shri S.N. Gaikwad, learned counsel for applicant. He has pointed out the documents filed on record and submitted that Rajendra Madhaorao Pol died on 11/12/2016. The applicant applied on 12/05/2017. The document dated 12/05/2017 shows that the applicant applied within one year from the date of death of her father. The respondent no.4 has admitted in the proposal dated 16/01/2020 stating that there was no delay on the part of applicant, but it was an administrative delay. The respondent no.3 not considered the proposal properly and mechanically rejected the same.

6. The G.R. of 2017 is the consolidation of earlier G.Rs. As per Para 10 (A) of the G.R. of 2017, the application for appointment on compassionate ground shall be made within one year from the date of death of the deceased employee.

7. It is clear that the applicant had applied within one year from the date of death of her father (deceased employee). There was no delay on the part of applicant. It was submitted by respondent no.4, the Assistant Director of Health Services (Malaria), Nagpur to the Deputy Director of Health Services, Nagpur (R/3) that there was no delay on the part of applicant and it was an administrative delay. Even though the respondent no.3, the Deputy Director of Health Services, Nagpur not considered the proposal. It is clear that there was no delay on the part of applicant, hence the rejection of her application to include her name in the waiting seniority list is not legal and correct. Therefore, I pass the following order-

ORDER

- i) The O.A. is allowed.
- ii) The respondents are directed to include the name of applicant in the waiting seniority list for appointment on compassionate ground and provide the employment, as per rules.

iii) The respondents are directed to consider the applicant's seniority in the waiting list of the year, 2017.

iv) No order as to costs.

Dated :- 09/01/2023.

**(Justice M.G. Giratkar)
Vice Chairman.**

dnk.

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 : 09/01/2023.