

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.575 OF 2017

DISTRICT : PUNE

Shri Ajay Rajendra Purve.)
Seeking Class IV appointment on the)
Establishment of Respondent.)
Residing at House No.F-109, Survey No,)
36/27, Shree Maha-Ganeshnagari Society,)
Manjari Road, Pune – 411 036.) **...Applicant**

Versus

The Dean.)
B.J. Medical College & Sassoon General)
Hospitals, Pune – 411 001.) **...Respondent**

Mrs. Ranjana Todankar, Advocate for Applicant.

Mr. A.J. Chougule, Presenting Officer for Respondent.

CORAM : SHRI A.P. KURHEKAR, MEMBER-J

DATE : 08.09.2020

JUDGMENT

1. The Applicant has challenged the order dated 10.10.2016 whereby his claim for appointment on the basis of recommendation of Lad-Page Committee stands rejected invoking jurisdiction of this Tribunal under Section 19 of the Administrative Tribunals Act, 1985.

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2. Shortly stated facts giving rise to this application are as under :-

The Applicant's grandmother namely Smt. Munni Babu Sarvan was Sweeper on the establishment of Respondent – Dean, D.J. Medical College and Sassoon General Hospital, Pune. She took voluntary retirement w.e.f. 06.10.1990. After her voluntary retirement, she submitted an application on 28.12.1990 to the Respondent nominating her daughter namely Smt. Kamal Rajendranath Purve as her legal heir for appointment on Class-IV post in terms of recommendation of Lad-Page Committee. The Applicant is son of Smt. Kamal R. Purve. He contends that his mother Smt. Kamal R. Purve was already working on leave vacancy as Aaya on the establishment of Respondent and her appointment was regularized in terms of decision of Hon'ble High Court in **Writ Petition No.3416/1992 decided on 5th April, 2007**. The Applicant, therefore, contends that his mother Smt. Kamal was appointed independently in terms of decision of Hon'ble High Court and it has nothing to do with the recommendations of Lad-Page Committee. Thereafter, Smt. Munni B. Sarvan (grandmother of Applicant) nominated the Applicant in her place for appointment in terms of Lad-Page Committee. On that basis, the Applicant made an application to Respondent on 30.11.2015 for appointment in terms of recommendation of Lad-Page Committee. However, the Respondent rejected the same by order dated 10.10.2016, which is impugned in the present O.A.

3. Mrs. Ranjana Todankar, learned Advocate for the Applicant sought to contend that, though Smt. Munni B. Sarvan had nominated her daughter Smt. Kamal for appointment in terms of recommendation of Lad-Page Committee, no such appointment was provided to her and she secured employment independently in view of decision of Hon'ble High Court in Writ Petition No.3416/1992. She, therefore, contends that the appointment of Smt. Kamal was totally independent and not in terms of

recommendation of Lad-Page Committee. On this line of submission, she contends that the Applicant being nominated as heir by his grandmother, is entitled for appointment on in terms of recommendation of Lad-Page Committee, and the impugned order is unsustainable in law.

4. Per contra, Smt. A.J. Chougule, learned Presenting Officer in reference to the pleas raised in reply submits that even if the employment of mother of the Applicant was not in terms of recommendation of Lad-Page Committee, the Applicant is not entitled to the relief claimed, as for the first time, he made an application on 30.11.2015 which was after 25 years from voluntary retirement of grandmother and it being not made within one year in terms of Circular dated 21st October, 2011 and 26th February, 2014, the impugned order cannot be faulted with.

5. Admittedly, the Applicant's grandmother Smt. Munni B. Sarvan was working as Sweeper who was belonging to Mehtar Community and took voluntary retirement on 06.10.1990. Besides, admittedly, she first nominated her daughter namely Kamal and on the basis of nomination, Smt. Kamal applied for appointment in terms of recommendation of Lad-Page Committee on 28.12.1990. It appears that she was already in temporary service on the establishment of Respondent. From the record, it is quite clear that Union had filed a complaint (ULP complaint) No.579/1991 against the Respondent in Industrial Court, Pune which was allowed by order dated 3.04.1992. The Industrial Court held that the Respondent had indulged in unfair labour practices as contemplated under Item 6 and 9 of Schedule of The Maharashtra Recognition of Trade Union and Prevention of Unfair Labour Practices Act, 1971. The Respondent challenged the decision in Writ Petition No.3416/1992 before Hon'ble High Court. The perusal of order of Hon'ble High Court dated 5th April, 2007 reveals that, in the meantime, in pursuance of interim direction of Hon'ble High Court, permanency was granted to temporary employee including the Applicant. The Government fairly conceded that



the services of the Applicant was regularized. Therefore, Writ Petition was disposed of on 5th April, 2007.

6. Thus, true the source of appointment of Smt. Kamal was independent and she was not appointed in terms of recommendation of Lad-Page Committee. However, the fact remains that she was initially nominated by the Applicant as her heir for appointment in terms of recommendation of Lad-Page Committee.

7. Lad-Page Committee was constituted to make recommendations for improvement of Mehtar Community. As per recommendation of Lad-Page Committee, scavenger on his retirement was entitled to nominate one of his/her heir for appointment on Class-IV post, so that the family should get financial assistance which was considered deprived and oppressed section of the society.


8. The learned P.O. has rightly pointed out that, by Circular dated 21st October, 2011 (Page No.21 of Paper Book), the limitation of one year from retirement was provided for making an application for appointment in place of retired or deceased employee. The Government of Maharashtra then again issued Circular dated 26th February, 2014 for continuing the recommendations of Lad-Page Committee. In Circular dated 26th February, 2014, it is clarified that, initially there was no limitation prescribed for making an application by the heir nominated by the employee and for the first time, by Circular dated 21st October, 2011, the limitation of one year was introduced. It is further clarified in Circular dated 26th February, 2014 that the limitation now prescribed will not be applicable to the pending matters.

9. Now turning to the facts of the present case, admittedly, the Applicant for the first time made an application as a nominee of Smt. Munni B. Sarvan on 30.11.2015. Whereas Smt. Munni B. Sarvan took

voluntary retirement on 06.10.1989. The Applicant's date of birth is 3rd August, 1980. He attained the majority in 1998. However, he for the first time applied on 30.11.2015 which is quite belated. There is no explanation for such belated claim. True, at the time of voluntary retirement of Smt. M.B. Sarvan, no limitation was prescribed for making an application and for the first time, the limitation of one year was made by Circular dated 21st October, 2011. Even thereafter also, the Applicant did not make an application and slept over his alleged rights. He applied quite belatedly on 30.11.2015 which also goes to show that there was no such necessity of employment to the member of family. Indeed, the appointment was secured by Applicant's mother Smt. Kamal though on the basis of order passed by Industrial Court, but fact remains that the object of recommendation of Lad-Page Committee that one heir should get appointment has been fulfilled.

10. As such, even if the appointment of Applicant's mother was not related to the recommendation of Lad-Page Committee, there is no denying that the grandmother had initially nominated her daughter Smt. Kamal for appointment. Apart, the claim of the Applicant is not within limitation in terms of Government Circulars dated 21.10.2011 and 26.02.2014. The Applicant ought to have applied at least within one year from Circular dated 21.10.2011, but he slept over his rights. As such, the claim being belated, is not sustainable and impugned order needs no interference. There is no proximity in the claim in view of long gap of 25 years from the date of voluntary retirement of the erstwhile employee and the application made by the Applicant.

11. The necessary corollary of aforesaid discussion leads me to sum-up that the O.A. is devoid of merit and deserves to be dismissed. Hence, the following order.



ORDER

The Original Application stands dismissed with no order as to costs.

Sd/-

(A.P. KURHEKAR)
Member-J

Mumbai

Date : 08.09.2020

Dictation taken by :

S.K. Wamanse.

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