

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 682 of 2015 (SB)**

Sushil Shyam Gulhane,  
Aged about 19 years,  
Resident of Mangrul (Dastgir),  
Tahsil Dhamagaon Railway,  
District Amravati.

**Applicant.**

**Versus**

- 1) State of Maharashtra,  
General Administration Department,  
Mantralaya, Bombay-32  
through Secretary to Government.
- 2) The Collector, Wardha.
- 3) The Deputy Director of Land Records,  
Nagpur.

**Respondents**

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**Shri M.R. Rajgure, Advocate for the applicant.**

**Shri M.I. Khan, learned P.O. for respondents.**

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

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**JUDGMENT**

**(Delivered on this 19<sup>th</sup> day of September,2018)**

Heard Shri M.R. Rajgure, learned counsel for the  
applicant and Shri M.I. Khan, learned P.O. for the respondents.

2. The applicant is claiming appointment on the post of Group-D employee on compassionate ground. The said post was denied to him vide communication dated 13/09/2005 by the Deputy Director of Land Records, Nagpur i.e. respondent no.3 and therefore it is claimed that the said communication be quashed and set aside.

3. From the admitted facts on record, it seems that the applicant's father Shaym B. Gulhane was working on the establishment of Collector Office, Wardha under Tahsildar, Seloo. He died on 02/07/2000 while working on the post. On 18/01/2001 the applicant's mother Smt. Manorama Shyam Gulhane filed application for grant of employment on compassionate ground and her name was registered in the list of persons to be appointed on compassionate ground. Her name was also recommended, but she could not get appointment prior to attaining age of 40 years. In fact she was called for interview with essential documents on 17/06/2005, but was not selected and ultimately her name was removed from the list on the ground that she has attained the age of 40 years. On 18/12/2009 the applicant applied for appointment on compassionate ground along with the necessary documents, but his claim was not considered.

4. The respondent no.2, the Collector, Wardha and the respondent no.3 the Deputy Director of Land Records, Nagpur have filed their separate affidavits and justified the action taken by the respondents. It is stated that the applicant had applied after lapse of 11 years from the date of communication / letter dated 13/09/2005 and therefore his claim cannot be considered. It is however admitted that the age of the applicant on the date of death of his father was below 18 years. It is also admitted that the applicant's mother crossed the age of 40 years and therefore her name was deleted from waiting list of job seekers on compassionate ground. It is further stated that the applicant's mother was recommended for employment, but she was found unfit for the post of Supervisor and therefore employment was denied to her.

5. From the facts on record it seems that there is no dispute that the date of birth of the applicant is 04/12/1991 and he became 18 years on 04/12/2009. From the record it seems that immediately after attaining majority and after the claim of the applicant's mother was rejected on the ground that she was unfit and her name was removed from the waiting list on the ground that she has crossed more than 50 years of age, the applicant

applied for the post. The Annex-A-16 is the copy of such application which was filed on 18/12/2009. Thus it is crystal clear that within one year of attaining majority, the applicant has filed such application.

6. The learned counsel for the applicant has invited my attention to one correspondence dated 02/09/2014 (Annex-A-1) at P.B. page nos.18 to 20 (both inclusive). This letter is addressed to the Deputy Secretary, GAD, Mantralaya, Mumbai by the District Collector, Wardha. The last 3 paras of the said letter are self explanatory and the same are as under :-

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i pyhr dk; i/nrh o ; kst uP; k rjrqhr I qkkj.kk dj.; kr vkyY; k vkgs-  
R; ke/khy rjrqhud kj Jherh eukjek '; ke xYgkus; kauk o; kph 40 o"ka i qkZ  
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fourh vtZl kj rRdkyhu ftYgkf/kdkjh eglus kauh Jherh eukjek 'kke  
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i Ruhph uko o; o"ka 40 >kY; kus vuqda k ; knhuu deh dY; ke qsl nj idj.k  
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7. The plain reading of the aforesaid recommendation clearly shows that the name of the applicant was very much taken in the wait list and it was specifically requested that his case shall be considered for appointment on compassionate ground. However, no decision has been taken on such recommendation and there is absolutely no reason as to why the applicant's name

has not been considered. Admittedly, the applicant has applied within one year from the date of attaining age of majority after the death of his father and therefore the applicant's name should have been considered on merits and should not have been denied. The learned counsel for the applicant has placed reliance on the case reported by the Hon'ble Apex Court in case of **Smt. Sushma Gosain and others Vs. Union of India and others AIR 1989 SC 1976**, wherein it has been held that the denial of appointment is patently arbitrary. The learned counsel for the applicant also placed reliance on the Judgment delivered by the Hon'ble High Court Bench at Aurangabad in Writ Petition No.7832/2011 on 28/02/2012, Judgment delivered in O.A.No.380/2016 by this Tribunal Bench at Mumbai on 14/03/2017 in case of **Smt. Sangita R. Doijad & Another Vs. the State of Maharashtra & Ors.**, O.A.No.503/2015 of this Tribunal Bench at Mumbai on 05/04/2016 in case of **Shri Piyush Mohan Shinde Vs. State of Maharashtra & Ors.** and O.A.No.239/2016 in case of **Swati P. Khatavkar & Ano. Vs. State of Maharashtra & Ors.**, on 21/10/2016.

8. I have gone through the Judgments on which the learned counsel for the applicant has placed reliance as aforesaid. From the admitted facts on record it therefore seems that earlier

the applicant's mother's claim was rejected as she was found unfit though she was taken on the waiting list of the candidates to be appointed on compassionate ground and subsequently her name was deleted on the ground that she attained the age of 40 years. Throughout the said period the applicant was in minority. After attaining the age of majority, the applicant had applied for compassionate ground within one year and his name was also taken on waiting list and not only that the Collector also recommended that his case may be considered. However, nothing was done. The applicant therefore rightly approached this Tribunal. I am of the opinion that the applicant's case should have been considered on merits. The applicant has challenged the rejection of his mother's claim on two grounds i.e. (1) that she was found unfit for the appointment and (2) that she crossed the age of 40 years. The applicant desires that the communication in this regard be quashed and set aside. However no relief can be granted to the applicant in this regard simply for the reason that the aggrieved party by such communication was applicant's mother and she has not challenged the said communication, she is not party to the O.A. and therefore the relief sought under para no.10 (A) & (B) cannot be granted. So far as the claim (c) is

concerned, the same can be considered. Hence, the following order :-

**ORDER**

(i) The O.A. is partly allowed.

(ii) The respondents are directed to consider the candidature of the applicant for any suitable post as per his qualification for appointment on compassionate ground in place of his father provided the applicant fulfils the other criteria for grant of appointment on compassionate ground as per the G.Rs. available in the field. A decision on the applicant's application shall be taken within three months from the date of this order and same shall be communicated to the applicant in writing. No order as to costs.

**Dated :- 19/09/2018.**

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

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