

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 782 of 2019 (S.B.)

Ganesh S/o Murlidhar Shrikhande,
Aged about 25 years, Occ. Nil,
R/o Near Mahendra Vidyalaya, Camp Amravati,
Tah. & Dist. Amravati.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary, Ministry of Water Resource
Department, Mantralaya, Mumbai-32.
- 2) The Director of Soil Surveyor,
Directorate of Irrigation Search and Development
Department, 8 Moledena Path, Pune-411 001.
- 3) The Soil Surveyor Officer,
Soil Survey Division, Nagpur.
- 4) The District Collector, Amravati,
Camp Amravati, Tah. & Dist. Amravati.

Respondents.

Shri S.N. Gaikwad, Advocate for the applicant.
Shri H.K. Pande, P.O. for respondents.

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

Dated :- 16/09/2022.

JUDGMENT

Heard Shri S.N. Gaikwad, Id. counsel for applicant and
Shri H.K. Pande, Id. P.O. for respondents.

2. The case of the applicant in short is as under –

The father of applicant namely Murlidhar Marotrao
Shrikhande was serving with respondent no.3 on the post of Peon. He

died on 08/05/2000. That time the applicant was aged about 10 years. Therefore, the mother of applicant namely Smt. Rekha Wd/o Murlidhar Shrikhande immediately applied on 27/07/2000 for appointment on compassionate ground. She had supplied all necessary documents. The respondent no.3 has forwarded all the documents to the Head of Department (HOD), i.e., respondent no.2. After verification of all the documents, the respondent no.2 has forwarded the proposal to respondent no.4.

3. The respondent no.3 has forwarded letter dated 18/02/2005 to the respondent no.4 contending that the proposal for compassionate appointment of Smt. Rekha Shrikhande was already submitted prior to two years and the respondent no.3 called the information whether the name of mother of applicant was inserted in the waiting list.

4. The respondent no.4 informed the respondent no.3 that no proposal was received from respondent no.3 and therefore her name was not included in the waiting list.

5. On 01/02/2010 the respondent no.2 informed the respondent no.3 stating that due to the overage, the name of Smt. Rekha Shrikhande was deleted.

6. The applicant applied for appointment on compassionate ground after attaining the age of majority on 24/11/2008. He was informed by letter dated 01/02/2010 stating that name of his mother was on the waiting list. Her name was deleted because she had completed age of 40 years and therefore the name of applicant cannot be inserted in the waiting list.

7. The applicant made several representations to the respondents, but those were not considered and therefore the applicant approached to this Tribunal by filing the O.A. No. 329/2017. This Tribunal passed order on 27/11/2018 with direction to respondent nos.1 to 4 to pass suitable order on the application dated 24/11/2008 submitted by the applicant for appointment on compassionate ground. The respondents have decided the representation of applicant dated 24/11/2008 and informed the applicant on 22/2/2019 stating that the name of mother of applicant Smt. Rekha Shrikhande was taken on the seniority list, but she has completed the age of 40 years and therefore her name was deleted. There is no provision to substitute the name of applicant in place of name of her mother as per the G.R. dated 21/09/2017.

8. Heard learned counsel for applicant Shri S.N. Gaikwad. He has pointed out the communication issued by respondent no.4 dated 13/06/2006. As per communication dated 13/06/2006,

information was given by the respondent no.4 to the Deputy Soil Surveyor Officer, Amravati stating that name of Smt. Rekha Shrikhande was not on the seniority list. As per the letter dated 01/07/2010 (P-29) the respondent no.4 informed to the office of respondent no.2 stating that again the documents were verified, but the proposal of Smt. Rekha Shrikhande for taking her name on seniority list was not found. But subsequently as per communication dated 25/02/2011 (P-31) it was informed to the applicant's mother that her name was on the seniority list and her name was deleted from the seniority list, because, she has completed 40 years of age.

9. It appears that respondents have avoided for taking the name of applicant's mother and also the applicant on the seniority list. In some letters, they have informed that name of applicant's mother was not taken in seniority list, because there was no such proposal by respondent no.2.

10. It appears that when the applicant applied on 24/11/2008 for inserting his name for providing service on compassionate ground, then it was informed to him that the name of his mother was already in the seniority list and her name was deleted from the seniority list, because, she has completed 40 years of age. It appears that the stand taken by respondents appears intentionally for not providing service to the applicant or his mother on compassionate ground.

11. The documents filed on record clearly show that the respondents have avoided to provide the service to the applicant or his mother on compassionate ground. In some of the letters, they have informed that the name of mother of applicant was not taken in seniority list as there was no proposal. The letter dated 01/07/2010 (P-29) issued by the Collector, Amravati clearly shows that he again verified the documents, but he did not find any proposal by respondent no.2 for appointment of applicant's mother on compassionate ground. It is clear that when the applicant applied on 24/11/2008 for appointment on compassionate ground, then he was informed that name of his mother was already taken in seniority list, but it was deleted, because, she has completed 40 years of age and there is no provision of substitution name of other legal heirs as per the G.R. of 2017.

12. The G.R. of 2017 in respect of compassionate appointment is the compilation of all the earlier G.Rs. in respect of compassionate appointment. The Hon'ble Bombay High Court has held in the various Judgments that the substitution cannot be denied. In one of the Judgment, the Hon'ble Bombay High Court, Bench at Aurangabad in Writ Petition No.6267/2018 in the case of **Dnyaneshwar S/o Ramkishna Musane Vs. State of Maharashtra & Others**, has held that the restrictions imposed by the Government in the G.R. of 2015 in

respect of not substituting the name of legal heir are unreasonable and therefore, the Government was directed to delete such restrictions.

13. In the present matter, it appears that the respondents have avoided to provide service to the applicant or his mother on compassionate ground. In the earlier letters, it was informed by the respondent no.4 to respondent no.2 that the proposal for compassionate appointment of mother of applicant was not found. Again, it was informed to the respondent no.2 by respondent no.4 that he had verified all the documents again, but no such proposal was found. But surprisingly, when the applicant applied on 24/11/2008, he was informed that the name of his mother was already in the waiting list, but her name was deleted because she has completed 40 years of age.

14. Therefore, decision taken by respondent no.2 vide communication dated 22/02/2019 appears to be not proper. Hence, the following order –

ORDER

- (i) The O.A. is allowed.
- (ii) The impugned communication dated 22/02/2019 issued by respondent no.2 is hereby quashed and set aside.

(iii) The respondent nos. 2 to 4 are directed to insert the name of applicant in the seniority list for appointment on compassionate ground and provide the suitable appointment to the applicant as per seniority.

(iv) No order as to costs.

Dated :- 16/09/2022.

(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 : 16/09/2022.

Uploaded on : 21/09/2022.

ok*