

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 797 of 2019 (S.B.)

Purushottam S/o Tukaram Nimgade,
Aged about 49 years,
Occ. Nil, R/o Mul, District Chandrapur.

Applicant.

Versus

- 1) Government of Maharashtra,
through its Secretary, Health Department,
Complex Building, 10th floor, New Mantralaya,
Mumbai-400 001.
- 2) Director, State Health Services,
Government of Maharashtra,
Arogya Bhavan, Saint Georges Rugnalaya Awar,
Dimelo Road, Mumbai-400 001.
- 3) Assistant Director,
State Health Services (Mantralaya), Nagpur,
Mata Kacheri Premises, in front of
Dikshabhoomi, Nagpur-22.
- 4) Filaria Officer, National Filaria,
Control Unit, Chandrapur,
Tah. and District Chandrapur.

Respondents.

Shri B.B. Pantawane, Advocate for the applicant.
Shri A.M. Ghogre, learned P.O. for respondents.

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

Dated :- 22/02/2023.

JUDGMENT

Heard Shri B.B. Pantawane, learned counsel for the applicant and Shri A.M. Ghogre, learned P.O. for the respondents.

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

Tukaram Devaji Nimgade, the father of applicant was working as a Peon in the National Filaria Control Unit, Chandrapur. He died on the same post on 10/04/1981 while he was in service. The applicant was minor at the time of death of his father. After attaining the age of majority, i.e., on 19/03/1998, he applied to respondent no.4 to appoint him on compassionate ground. The respondent no.4 rejected his application as per the G.R. of 2015. Hence, he approached to this Tribunal for direction to the respondents to enter his name in the waiting seniority list and appoint him on compassionate ground.

3. Heard Shri A.M. Ghogre, learned P.O. for the respondents. The application is strongly opposed by the respondent nos.3 to 4. It is submitted that the applicant applied after 17 years from death of his father. Therefore, as per G.R. dated 20/05/2015, delay cannot be condoned. The material portion in the G.R. is reproduced as under –

“१ (ड) अनुकंपा तत्वावर नियुक्तीसाठी पात्र वारसदाराला अर्ज सादर करण्यास २ वर्षांपर्यंतचा विलंब क्षमापित करण्याबाबत -

शासकीय कर्मचा-याच्या मृत्यूनंतर १ वर्षांच्या आंत अनुकंपा नियुक्तीसाठी पात्र वारसदाराने अर्ज सादर करणे आवश्यक आहे. तथापि १ वर्षानंतर २ वर्षे इतक्या कालावधीपर्यंत (मृत्युच्या दिनांकापासून ३ वर्षांपर्यंत) अर्ज सादर करण्यास विलंब झाल्यास असा विलंब क्षमापित करण्याचे अधिकार संबंधीत मंत्रालयीन प्रशासकीय विभागांच्या विभागप्रमुखांना देण्यात येत आहेत. ”

4. The contents of the G.R. shows that if there was any delay, power to condone that delay is vested to the Head of Department (Administration) of the Govt. of Maharashtra, Mantralaya, Mumbai.

5. The learned counsel for the applicant has pointed out the Judgment of Hon'ble Bombay High Court, Bench at Nagpur in the case of ***Roshan Vitthal Kale & Ano. Vs. State of Maharashtra & Ors., 2021 (2) Mh.L.J.,236***. The Hon'ble Bombay High Court has held that it was the duty of the department itself to explain the scheme of appointment on compassionate ground to the dependents of the deceased. If there was any delay, then that delay shall be condoned.

6. In the present case, nothing is on record to show that any of the Officer of the respondents / department explained the scheme to the dependents of the deceased or the applicant. Hence, the delay should have been condoned by forwarding the same to the Head of the Department (Administration), Mantralaya, Mumbai (as per G.R. dated 20/5/2015).

7. In view of the cited Judgment in the case of ***Roshan Vitthal Kale & Ano. Vs. State of Maharashtra & Ors., 2021 (2) Mh.L.J.,236***, the delay is to be condoned. Hence, the following order-

ORDER

(i) The O.A. is allowed.

(ii) The respondents are directed to enter the name of applicant in the waiting seniority list for appointment on compassionate ground and provide him employment on compassionate ground, as per the rules.

(iii) No order as to costs.

Dated :- 22/02/2023.

(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 : 22/02/2023.

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