

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH, NAGPUR
ORIGINAL APPLICATION NO. 915 OF 2017 (S.B.)

Shri Chandrakala Wd/o Rahul Waghmare,
Aged about : 32 years, Occupation – Household,
R/o Ukalipen, Washim,
Tah. And District Washim.

Applicant.

Versus

- 1) The State of Maharashtra,
Through its Secretary,
Water Resources Department,
Mantralaya, Mumbai-32.
- 2) The Superintending Engineer and
Regional Circle Officer, Vigilance
Cell Division, Amravati.
- 3) The Superintending Engineer,
Minor Irrigation Division, Washim,
District Washim.
- 4) The District Collector, Washim.
- 5) Milind S/o Shankarrao Waghmare,
Aged about 35 yrs.,
Occupation – Private, R/o Bajrang Nagar,
Triratna Colony, Jalna Road, Sunderwadi,
Behind Champawati Dhaba, Post Chikhaldhana,
Aurangabad, Tq. and Dist. Aurangabad-431 007.

Respondents

Shri A.D.Girdekar, the Id. Adv. for the applicant.

Shri M.I.Khan, the Id. P.O. for the respondent nos. 1 to 4.

Shri Vilas Dongre, the Id. Adv. for the respondent no. 5.

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

JUDGMENT

(Delivered on this 04th day of May, 2018)

Heard Shri A.D.Girdekar, the learned counsel for the applicant, Shri M.I.Khan, the learned P.O. for the respondent nos. 1 to 4 and Shri Vilas Dongre, the learned counsel for the respondent no. 5.

2. The applicant Smt. Chandrakala widow of Shri Rahul Shankar Waghmare is claiming appointment on compassionate ground and, therefore, requested that the respondents be directed to include her name in the waitlist of persons to be appointed on compassionate ground and to grant her such appointment.

3. From the facts on records, it seems that the father-in-law of the applicant namely Shri Shankar Konduji Waghmare was serving in the office of respondent no. 3 i.e. Superintending Engineer, Minor Irrigation Circle, Washim as a Compressor Operator in Group-C category. The said Shankar Konduji Waghmare died on 22/03/2009.

4. The applicant's husband i.e. son of deceased Shankar Waghmare namely Rahul Shankar Waghmare submitted his application to include his name in the list of Committee to be appointed on for

making appointment on compassionate ground. However, on 16/08/2012, the applicant's husband Shri Rahul died. The second son of Shri Shankar Waghmare namely Milind Shankar Waghmare also applied to include his name in the list of candidates to be appointed on compassionate ground. The widow of Shankar Waghmare also gave her consent for the same. The respondent no. 5 was taking care of his mother, but on 09/08/2016 he left the family and shifted to Aurangabad for service. The applicant, therefore, filed an application for appointment on compassionate ground and the applicant's mother-in-law and Omkar Shankar Waghmare also gave consent for the same. The proposal was accordingly forwarded by respondent no. 3 to respondent no. 4 on 23/09/2016. In the meantime, there was a dispute between applicant and respondent no. 5. The applicant and respondent no. 5 were directed to be present before the respondent no. 3 alongwith the documents on 22/08/2017. However, no proceedings were conducted and the name of respondent no. 5 has been included in the waitlist candidates to be appointed on compassionate ground on 16/10/2017. The said order has been passed without application of mind and, therefore, the applicant has filed this O.A.

5. The C.A.No.95/2018 has been filed whereby the applicant is claiming leave to amend/attach the copy of order dated 16/10/2017 rejecting the applicant's claim and adding respondent no. 5 in the waitlist

of the candidates to be appointed on compassionate ground. Since the said impugned order is of utmost importance, the C.A.No.95/2018 is allowed and the applicant is allowed to keep on record the copy of the order dated 16/10/2017.

6. The respondent no. 1 to 4 tried to justify the order. It is stated that after death of Shri Rahul Waghmare son of deceased employee i.e. husband of the applicant, the second legal heir Shri Milind Waghmare i.e. respondent no. 5 filed on application for appointment on compassionate ground and his application has been considered. It is stated that when one of the sons of deceased employee is alive and available, he has to be considered for compassionate appointment. The respondent no. 5 has also filed affidavit-in-reply and tried to justify his claim for appointment on compassionate ground. The material point to be considered in this case is whether, the applicant's claim can be considered for appointment on compassionate ground, in view of the fact that the deceased employee has another son who is also claiming the same relief. The Id. Counsel for the applicant has placed on record the copy of the G.R. dated 17/11/2016, whereby following decision was taken by the Government at P.B., Pg. No. 50-51, which reads as under:-

'AkI u fu.Æ %

1-'AkI u fu.Æ; dz vdi k&1033@i zcz8@vKB] fn-26-02-2013 jna >KY; kus R; kuq&xkusr l p mi jkDr l nHAZ dz 1] 2 o 3 vUo; sfoghr dyy; k vuqlä k rRokojhy fu; Drhl kBh fnoær 'AkI dh; depk&; k; k i k= ukropkdk; k ; knhe/; s l qAkj .Ak

dj.; kr ; r vl u [Akyhy uem dsysys ukrokbzd gs vuclak fu; Drlh kBh ik= jkgrhy o R; ki dth, dk ik= ukrokbzdkl fu; Drlh vuks jkghy-
 1-i rhei Ruh]
 2-eyxk@eyxh ¼vfookghr@fookghr½] eR; q w h z dk; ns Ahj f j R; k n R r d ?Ar syk eyxk@eyxh ¼vfookghr@fookghr½
 3-fnoaxr 'AkI dh; deþk&; kpk eyxk g; kr ul sy fdok rksfu; Drlh kBh ik= ul sy r j R; kph l u
 4-?AVLOksVr eyxh fdok cgh.A] i f j R; Drk eyxh fdok cgh.A] fo/Aok eyxh fdok cgh.A]
 5-dG fnoaxr vfookghr 'AkI dh; deþk&; k&; k ckrhr R; kP; koj l oLoh voyau vl .Akj HAKÅ fdok cgh.A-
 2- vuclak rRokoj fu; Drlh ns; ki w h z l c f /Ar k d M u fnoaxr deþk&; koj voyau vl y y ; k d v p k r h y v U ; 0; Drhpk l h HAKG dj.; kckcr ifrKki = ?As; kr ; kos HAKfo"; ke/; s l nj ifrKki =kps mYy?Au >KY; kckcrph rdtj l c f /Ar d v p k r h y l n L ; k u h d y ; k l l nj r d k j h p h p k d 'A h l c f /Ar fu; Drlh i k f /A d k j h e f 'A L r H A k f o "A ; d i k f /A d k &; kus djkoh- p k d 'A h v a r h v u c l a k f u ; D r l h / A k j d k u s i f r K k i = k p s m Y y ? A u d y ; k p s f u " i = > K Y ; k l R ; k y k l o r u d k < u V k d . ; k p h n s A h y f " A { A k n r k ; b y -
 3- l m H A K Z A u 'A k l u f u . A z d z ¼ 1 ½] ¼ 2 ½ v k f . A ¼ 3 ½ e / A h y r j r q h ; k v k n s A k r h y m i j k D r r j r q h ; k e ; k h s ; i r l q A k j h r > K Y ; k v k g s v l s l e t . ; k r ; k o s
 4- l n j 'A k l u f u . A z e g k j k " V a 'A k l u k P ; k w w w . m a h a r a s h t r a . g o v . i n ; k l a d s L F A G k o j m i y C / A d j . ; k r v k y k v l u R ; k p k l a d s r k d 201611181513356607 v l k v k g s g k v k n s A f m t h v y L o k { A j h u s l k a A k f d r d : u d k . ; k r ; r v k g s
 egkjk"Vtpsjkt; i ky ; k&; k vknskkud kj o ukokus

7. From the aforesaid Government Resolution, it will be clear that the person i.e. daughter-in-law of the deceased employee is entitled to claim appointment on compassionate ground but only when the deceased left no son or if left a son, he is not eligible to be appointed. The sub-clause (3) of clause 1 as referred to above, makes it crystal clear. In the present case admittedly, the deceased employee Shri Shankar Waghmare left behind a widow Smt. Shantabai Waghmare and three sons namely Shri Rahul, Omkar and Milind Waghmare. Intially Shri Rahul Waghmare applied for appointment on compassionate ground, but before his claim was considered, he died and thereafter respondent no. 5

Shri Omkar Waghmare applied for the same. Thus admittedly, Shri Shankar Waghmare, survived by three sons and a widow and i.e. Smt. Shantabai Waghmare, Rahul, Milind and Omkar Waghmare. The applicant is widow of Shri Rahul Waghmare. It is admitted that Shri Rahul died on 16/08/2012. Thus, at the time of death of Shri Rahul Waghmare was having widow Smt. Shantabai Waghmare and son Shri Milind and Omkar Waghmare and then applicant daughter-in-law. When a son of deceased employee is available, the claim of such son, is to be considered first and if such son is not available or if such son is not eligible to be appointed, then only daughter-in-law is to be considered. I do not find it necessary to go into the merits as to whether the respondent no. 5 was eligible for being considered for appointment on compassionate ground. Since the son of deceased employee was available, the claim of the applicant has not been considered. Therefore, the rejection of the applicant's claim vide letter dated 16/10/2017 cannot be said to be illegal. I therefore, do not find any merits in the O.A. Hence the following order:-

ORDER

The O.A. stands dismissed with no order as to costs.

Dated :- 04/05/2018

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

aps