

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 96 of 2020 (S.B.)

Yogesh S/o Ashok Sakharkar,
Aged 27 years, Occ. Nil,
R/o at Chapdoh, Post Bhosa,
Tq. & Dist. Yavatmal.

Applicant.

Versus

- 1) State of Maharashtra,
through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai-32.
- 2) The Project Officer,
Ekatrik Tribal Development Project,
Pandharkawaa, Dist. Yavatmal.

Respondents.

Shri N.S. Warulkar, Advocate for the applicant.
Shri M.I. Khan, learned P.O. for respondents.

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

Date of Reserving for Judgment : 15th June,2022.

Date of Pronouncement of Judgment : 24th June,2022

JUDGMENT

(Delivered on this 24th day of June,2022)

Heard Shri N.S. Warulkar, learned counsel for the applicant and Shri M.I. Khan, learned P.O. for the respondents.

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

The father of the applicant namely Shri Ashok Sakharkar was working under the respondent no.2 at Ashram School Kinhi (J),

Tah. Ralegaon Dist. Yavatmal. The father of applicant died on 30/9/2007. The brother of applicant moved application for appointment on compassionate ground. His name was taken in the waiting list of compassionate candidates. Lateron, the brother of applicant moved application for deleting his name from the said waiting list and for including his younger brother's name, i.e., the applicant. The respondents neither removed the name of brother of applicant nor included the name of applicant in the waiting list.

3. On 17/9/2019, the applicant requested the respondent no.2 to provide him information in respect of waiting list dated 25/07/2015 for taking appropriate action. The respondent no.2 failed to take any action on his application. Therefore, the applicant approached to this Tribunal for direction to the respondents to include his name in place of his brother's name.

4. The application is opposed by the respondents. It is submitted that the name of applicant cannot be included in the waiting list as the name of brother of applicant was included in the waiting list. The brother of applicant got employment in other department and therefore his name is now removed.

5. Heard Shri N.S. Warulkar, learned counsel for the applicant . He has pointed out the rejoinder filed by the applicant. It is submitted that the brother of applicant has been selected for the

post of Kamathi in the Ashram School in 2013 at Gadchiroli district without taking any benefit of compassionate scheme. The brother of applicant married and permanently residing at Gadchiroli. He is not taking any care of his younger brother and old aged mother who are residing at Chapdoh, Post Bosa, Tah. and Dist. Yavatmal. Therefore, the respondents ought to have provided employment to the applicant under the scheme of compassionate appointment.

6. Heard Shri N.S. Warulkar, learned counsel for the applicant. He has submitted the applicant is taking care of his old mother. His brother is residing separately at Gadchiroli along with his wife. His brother has not taken any benefit of scheme of appointment on compassionate ground and therefore he prayed to direct the respondents to include the name of applicant.

7. Heard the learned P.O. Shri M.I. Khan. He has strongly objected the application. It is submitted that as per G.R. of 2005, the name of applicant cannot be included in place of name of his brother. Hence, the present application is liable to be rejected.

8. As per the rejoinder filed by the applicant, the brother of applicant got employment and he is residing at Gadchiroli along with his wife. He is not taking care of his younger brother, i.e., applicant and old aged mother. The brother of applicant has not taken any benefit of Govt. G.R. for appointment on compassionate ground.

9. Shri N.S. Warulkar, learned counsel for the applicant pointed out the Judgment of Hon'ble Bombay High Court, Bench at Nagpur in Writ Petition No.2274/2017, decided on 29/08/2018. The Hon'ble High Court has held that brother who is residing separate along with his wife and not taking care of his old mother and brother, his younger brother is entitled to be appointed on compassionate ground.

10. In the present matter, the applicant's brother whose name was included in the waiting list, is now residing separate. The brother of applicant has not taken any benefit of G.R. for appointment on compassionate ground. Hence, the following order –

ORDER

- (i) The O.A. is allowed.
- (ii) The respondents are directed to include the name of the applicant in the waiting list of candidates of compassionate appointment scheme.
- (iii) The respondents are directed to provide the employment to the applicant as per the Govt. G.Rs. for appointment on compassionate ground, as per the rules.
- (iv) No order as to costs.

Dated :- 24/06/2022.

(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 : 24/06/2022.

Uploaded on : 24/06/2022.