

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 964 of 2020 (SB)

(1) Smt. Anusaya W/o Dnyaneshwar Kohchade,
Aged about 45 years, Occupation – Nil,
R/o Ward No.5, Seloo, Tahsil Seloo, District Wardha.

(2) Kunal S/o Dnyaneshwar Kohchade,
Aged about 22 years, Occ. Nil,
R/o Ward No.5, Seloo, Tahsil Seloo, District Wardha.

Applicants

Versus

1) The State of Maharashtra
through its Secretary,
Forest Department, Mantralaya, Mumbai-32.
District Mumbai.

2) The District Collector, Chandrapur,
District Chandrapur.

3) Pradhan Pracharya, Madhyavarti Vanrajik Mahavidyalaya,
Chandrapur District Chandrapur,
Mul Road, Chandrapur,
Tahsil and Dist. Chandrapur.

4) Chief Conservator of Forest,
Chandrapur Circle, Chandrapur,
Civil Lines, Nagpur Road, Chandrapur District,
Chandrapur.

Respondents.

Shri S.U. Ghude, Advocate for the applicants.

Shri A.M. Khadatkhar, P.O. for the respondents.

**Coram :- Hon'ble Shri M.A. Lovekar,
Member (J).**

Date of Reserving for Judgment : 10th October,2022.

Date of Pronouncement of Judgment : 13th October,2022.

JUDGMENT

(Delivered on this 13th day of October, 2022)

Heard Shri S.U. Ghude, learned counsel for applicants and Shri A.M. Khadatkar, learned P.O. for respondents.

2. Case of the applicants is as follows –

Dnyaneshwar Kohchade was working as a Class-IV employee i.e. Labourer on the establishment of respondent no.3. He died in harness on 07/07/2008. Applicant no.1 who is his wife applied for appointment on compassionate ground by submitting applications dated 24/07/2008 and 10/09/2009 (Annex-A-4 and A-5, respectively). She was then aged 33 years. Her name was entered in waiting list at Sr.No.3. By communication dated 04/09/2020 (Annex-A-10) she was informed that her claim could not be considered as she had attained the age of 45 years. The respondents ought to have considered applicant no.2 who is son of applicant no.1 and the deceased, for appointment on compassionate ground since he is ready to work on a Class-IV post. Representations made by the applicants for the purpose went unheeded. Hence, this O.A. for the following principal relief –

“(A) Quash and set aside the impugned decision of respondent no.3; Pradhanacharya Madhyavarti Vanrajak Mahavidyalaya Chandrapur, dated 08/10/2020 in the interest of justice at Annex-A-13, with further

direction to respondent nos.3 and 4 to provide the employment to the applicant no.2 in his establishment forthwith.”

3. Reply of respondent nos.1,3 and 4 is at page nos. 69 to 81. It is their contention that as per G.R. dated 22/08/2005 upper age limit for appointment on compassionate ground was 40 years which was then extended to 45 years by G.R. dated 06/12/2010 and the impugned communication was squarely based on the guidelines contained in these G.Rs.

4. In para-4.13 of the O.A. it is pleaded -

“the applicant no.1 submits that her son is ready to work as a Class-IV employee in the establishment of respondent nos.3 or 4.”

5. After the impugned order (Annex-A-10) was received by applicant no.1, applicant no.2 submitted representation (Annex-A-11) to respondent no.4 in which he stated –

“ माझे वडीलांचे कायदेशिर वारसदार माझी आई व मी असे दोघेच असून माझे आईने मला नियुक्ती देण्याचा अर्ज दिल्यामुळे कृपया मला माझे आईने मला केलेल्या अर्जाच्या दिनांकापासून म्हणजे दिनांक २४/०७/२००८ पासून पूर्वलक्षी प्रभावाने अनुकंपा तत्वावर नियुक्ती देण्यात यावी. ”

6. Applicant no.1 had submitted applications on 24/07/2008 and 10/09/2009 (Annex-A-4 and A-5, respectively) to appoint her on compassionate ground. At this point of time applicant no.2 was minor. Therefore, there was no question of applicant no.1 submitting,

in the alternative, that her son, applicant no.2, be appointed on compassionate ground. There is nothing on record to show that applicant no.1 had communicated to the respondents that instead of her, her son, applicant no.2 be appointed on compassionate ground on attaining majority. There is nothing on record to show that applicant no.2, after attaining majority and after communication of the impugned order, had made an application to substitute him as the dependent of the deceased for giving him an appointment on compassionate ground, after obtaining consent of other eligible dependents, if any.

7. In support of the claim made in the O.A. reliance is placed on following rulings –

(i) ***Smt. Subhadra Vs. the Ministry of Coal & Ano., 2018 (3) ALL MR 478 (SC)***. In this case, female dependent of the deceased was not given appointment on compassionate ground, because, according to the employer she was only entitled to monetary compensation. Rejection of her claim on this ground was found to be improper. Considerable time had elapsed thereafter. The employer was directed to appoint her son on compassionate ground. For loss of employment compensation of Rs.5,00,000/- was also awarded.

(ii) ***Smt. Yogita W/o Shivsing Nikam Vs. the State of Maharashtra & Ors.*** (Judgment of the Hon'ble Bombay High Court, Bench at

Aurangabad, dated 11/08/2021 in Writ Petition No.4219/2018). In this case it is held—

“(9) A consistent view has been taken by the Supreme Court in matters of death of a permanent employee and the applicability of the policy of compassionate appointment. The Hon’ble Supreme Court has concluded that granting compassionate appointment is a humane act. A family which is rendered to the comforts of life, there being a bread earner in the family, is shaken up with the death of such a bread earner. This virtually throws the family into a financial crisis. The purpose for which compassionate appointment schemes have been introduced is laudable since it ensures that the family which has suddenly faced a tragedy and is in mental and financial distress, would be provided with succour. A model employer would ensure that such a family is not rendered to starvation and it’s members are not required to beg for keeping their mind, body and soul together. At the same time, the Hon’ble Supreme Court has held that, with passage of a long duration of time, the family is no longer in financial stringency or distress and does not require any financial support, which would be a ground for declining compassionate appointment.”

(iii) **Smt. Sadhana W/o Vilas Lohkare Vs. State of Maharashtra and Ors.** (Judgment of this Tribunal / Bench in O.A.No.892/2019, dated 06/07/2022). In this case, following observations in **“Nikhil Maruti Gosarade Vs District Collector, Sangli and Others 2022 (1) Mh.L.J.34”** and **“Nitin s/o Yohan Arawade Vs. Central Bank of India, Mumbai 2022(2) Mh.L.J. 269”** are quoted—

“In cases of compassionate appointment, not only the authorities but also the tribunal is required to be more careful, sensitive and live to the human considerations and adopt a cautious approach before denying benefit under the compassionate appointment provisions.”

“It is unheard of that the compassionate appointment could be refused to an eligible member of the family which has lost a sole bread-earner, if the family was not indigent.”

8. It is now well settled that an application can be filed for substitution of a person who had initially applied for appointment on compassionate ground. This has not been done either by applicant no.1 or by applicant no.2 with the consent of applicant no.1. In the facts and circumstances of the case applicant no.2 cannot be deprived of an opportunity to apply for appointment on compassionate ground since his mother, applicant no.1 has crossed the age of 45 years. Hence, the order –

ORDER

- (i) The O.A. is allowed in the following terms.
- (ii) Applicant no.2 will be at liberty to submit an application for appointment on compassionate ground in the respondent department. The concerned authority shall deal with such application, if made, on its own merits, expeditiously and in accordance with law.
- (iii) No order as to costs.

Dated :- 13/10/2022.

(M.A. Lovekar)
Member (J).

*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 Member (J).

Judgment signed on : 13/10/2022.

Uploaded on : 13/10/2022.

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