

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 98 of 2020 (S.B.)

Akshay S/o Ramesh Kothekar,
Aged 29 years, Occ. Nil,
R/o at Maharana Pratap Society,
Near Ujwal Nagar, Behind Gadge Baba Smarak,
Yavatmal.

Applicant.

Versus

- 1) State of Maharashtra,
through its Secretary,
Medical Education and Drugs Department,
Mantralaya, Mumbai-32.
- 2) The Director,
Medical Education and Research,
Maharashtra State, Mumbai.
- 3) Dean,
Shri Vasantnao Naik,
Government Medical College and
Hospital, 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 Ramesh Kothekar was working with respondent no.3 college at Yavatmal as Junior Clerk. The father of applicant while working as a Junior Clerk with respondent no.3 died on 31/1/2007. The applicant moved application within one year on 6/10/2007 to consider him for appointment on compassionate ground. The date of birth of the applicant is 27/11/1990, therefore, at the time of applying he was 17 years. As there is no communication received from the respondents, the applicant applied on 7/8/2015 to respondent no.3 to consider him for appointment on compassionate ground. The respondent no.3 has recommended to respondent no.2 to consider the claim of applicant for grant of appointment under compassionate scheme. The respondent no.2 has not considered the grievance of the applicant for appointment on compassionate, therefore, the present O.A.

3. The O.A. is strongly opposed by the respondents. The date of birth of the applicant is dated 27/11/1990. He applied for appointment on compassionate ground on 6/10/2007. At that time he had completed 16 years and 10 months. As per the G.Rs. dated 11/9/1996 and 22/8/2005, his claim was not considered as he was

minor on that day. It is submitted that the applicant made an application to the respondents on 7/8/2015 after seven after attaining the majority. The application was barred by limitation in terms of G.Rs. dated 11/09/1996 and 22/8/2005. As per these G.Rs., the applicant ought to have made application within one year after attaining the age of majority. The applicant moved application after seven years after attaining the majority, therefore, the applicant is not entitled for any relief.

4. Heard Shri N.S. Warulkar, learned counsel for the applicant. He has pointed out the Judgment of Hon'ble Bombay High Court, Bench at Aurangabad in Writ Petition No. 439/2020, decided on 20/10/2021. He has submitted that it was the duty of the department to provide all the guidelines to the dependents of the deceased employee. The applicant had already applied as early as possible after the death of his father, but it was not considered because he was below the age of 18 years.

5. Heard learned P.O. Shri M.I. Khan. He has submitted that as per the G.R, the applicant should have applied within one year from the date of death of attaining the majority. The applicant applied after seven years and therefore he is not entitled for any relief.

6. There is no dispute that the applicant had applied for appointment on compassionate ground and on the date of application

he had not completed the age of 18 years. It was not informed to the applicant stating that as per G.R., he should file application within one year after attaining the age of majority. As per the G.R., the guidelines are given to the establishment of concerned department to provide all help to the dependents of deceased employee. As per the guidelines, it is for the concerned department to make them aware about the Govt. G.Rs. in respect of appointment on compassionate ground. The respondents have not provided any information to the applicant about the appointment on compassionate ground.

7. In the case of **Gopal Dayanand Ghate Vs. State of Maharashtra & ors.**, the Hon'ble Bombay High Court, Bench at Aurangabad has held as under –

“(xiii) Government Resolution dated 21.09.2017 provides vide clause 7A of Annexure A to the government resolution, that after an employee (officer) working in the Zilla Parishad dies in harness, it shall be the responsibility of the establishment officer to intimate the bereaved family, after 15 days of the death, the eligibility of any member of the family for compassionate appointment and details of the rights of the family members.

(xiv) Admittedly, the Zilla Parishad has not taken the efforts to convey such information to the grandfather of the petitioner, much less, intimating any of the minor children.

(xv) Clause 10A under annexure A to the government resolution mandates that the eligible member shall apply within one year, for seeking compassionate appointment”.

8. The applicant had already applied when he was aged about 17 years for appointment on compassionate ground, but he was not informed about the conditions of the G.Rs. by the respondents. Hence, in view of the Judgment of Hon'ble Bombay High Court, Bench at Aurangabad, the direction can be given to the respondents to appoint the applicant on compassionate ground. Hence, the following order –

ORDER

- (i) The O.A. is allowed.
- (ii) The respondents are directed to include the name of applicant in the list of candidates for appointment on compassionate ground.
- (iii) The respondents are directed to provide employment to the applicant, 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*