

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD

ORIGINAL APPLICATION NO. 729 OF 2017

DIST. : JALNA

Vijay s/o Anand Salve,
Age. 25 years, Occu. : Student,
R/o Jafarabad, Tq. Jafarabad,
Dist. Aurangabad.

-- APPLICANT

V E R S U S

1. The State of Maharashtra,
Through Secretary of Home Department,
[Copy to be served on C.P.O.,
M.A.T. Bench at Aurangabad.]

2. The Superintendent of Police,
Jalna, Dist. Jalna.

-- RESPONDENTS

APPEARANCE :- Shri V.S. Borkar, learned Advocate for the
applicant.
: Shri V.R. Bhumkar, learned Presenting
Officer for the respondents.

CORAM : Hon'ble Shri B.P. Patil, Member (J)
DATE : 28th March, 2018

O R A L - O R D E R

1. The applicant has challenged the communication dtd. 17.10.2012 issued by the res. no. 2 rejecting his application for giving him appointment on compassionate ground and also prayed to direct the res. no. 2 to give him appointment on compassionate

ground on the basis of application made by him on 3.9.2009 by filing this Original Application.

2. Deceased Anand Salve was father of the applicant. He was serving as a Police Constable on the establishment of the Superintendent of Police, Jalna. On 6.7.2003 he died while in service leaving behind the applicant, his mother viz Smt. Padmini as his legal heirs. After the death of Anand Salve mother of the applicant Smt. Padmini moved an application on 5.11.2003 to the res. no. 2 to give her appointment on compassionate ground. At that time she crossed age of 45 years. Therefore her application was not considered but no communication is received to the applicant or his mother from the res. no. 2 in that regard.

3. At the time of death of Anand Salve, the applicant was minor. After attaining the age of majority the applicant moved an application on 3.9.2009 claiming appointment on compassionate ground with the res. no. 2, but no action was taken by the res. no. 2 on the said application. Therefore, the applicant moved representations on 29.1.2010 and 10.9.2011. Thereafter the res. no. 2 issued communication dtd. 17.10.2012 informing the applicant that he is not eligible to get appointment on compassionate ground as he moved the application after completion of 19 years of his age and thereby rejected his

application. It is contention of the applicant that the res. no. 2 has not considered his application sympathetically and he has wrongly rejected the application filed by the applicant for appointment on compassionate ground. It is his contention that the res. no. 2 had not decided the application filed by the applicant's mother on 5.11.2003 and therefore the applicant had not moved the application for getting appointment on compassionate ground after attaining majority immediately and therefore the delay has been caused. It is contention of the applicant that the res. no. 2 has not considered the said facts and wrongly rejected his application and communicated his decision to the application by the letter dated 17.10.2012. Therefore he challenged the said communication dtd. 17.10.2012 by filing this O.A. and prayed to give directions to the res. no. 2 to give him appointment on compassionate ground.

4. The res. nos. 1 & 2 have filed their affidavit in reply and resisted the contentions of the applicant. They have not disputed the fact that father of the applicant viz. Anand Salve was serving on the establishment of res. no. 2 as a Police Constable and he died on 6.7.2003 when he was in service. They have admitted the fact that widow of deceased Anand Salve i.e. mother of the applicant moved an application on 5.11.2003 to the res. no. 2 to

give her appointment on compassionate ground. It is their contention that mother of the applicant Smt. Padmini Salve has already crossed the age of 45 years when she moved the application and therefore she was not entitled for appointment on compassionate ground as per G.R. dtd. 22.8.2005 and therefore the respondents communicated their decision to her by order dtd. 12.3.2010. They have also communicated the applicant and his mother that the applicant is not eligible to get appointment on compassionate ground as he has not moved the application for appointment on compassionate ground within one year after attaining the age of majority. It is their contention that in view of provisions of G.R. dtd. 11.9.1996 the applicant, who was minor at the time death of his father, ought to have filed the application for appointment on compassionate ground within one year after attaining the age of majority. The applicant has not moved the application for compassionate appointment in time and therefore his application was rejected in view of G.R. dtd. 11.9.1996 and the Circular dtd. 13.4.2010 issued by the Director General of Police, Maharashtra State, Mumbai. It is their contention that there is no illegality on their part and therefore they prayed to reject the O.A.

5. I have heard the arguments of Shri V.S. Borkar, learned Advocate for the applicant and Shri V.R. Bhumkar, learned

Presenting Officer for the respondents. I have also perused the various documents placed on record.

6. Admittedly deceased Anand Salve was the father of the applicant and husband of Smt. Padmini Salve. He was serving as a Constable on the establishment of res. no. 2. He died on 6.7.2003 while in service. After his death his widow Smt. Padmini moved an application on 5.11.2003 for getting appointment on compassionate ground. Admittedly at the time of death of Smt. Anand Salve the applicant was minor. His date of birth is 10.4.1990 as mentioned in the Transfer Certificate issued by Siddharth Art's & Commerce & Science College, Jafrabad, Tq. Jafrabad, Dist. Jalna and produced by the applicant at page 21. He attained the age of majority on 10.4.2008. Admittedly he had moved the application on 3.9.2009 to the res. no. 2 for getting appointment on compassionate ground after attaining the age of majority. Admittedly the said application was not filed within one year after attaining the age of majority by the applicant. The same came to be rejected by the res. no. 2 by the communication dtd. 17.10.2012 on the ground that it was not filed within one year after attaining the age of majority in view of G.R. dtd. 11.9.1996 and the Circular dtd. 13.4.2010 issued by the Director General of Police, Maharashtra State, Mumbai.

7. The learned Advocate for the applicant has submitted that the mother of the applicant initially filed the application on 5.11.2003 for getting appointment on compassionate ground. He has submitted that the applicant's mother was not eligible as she crossed the age of 45 years at that time, but the res. no. 2 has not taken any decision on the said application and has not communicated the said decision to the mother of the applicant. He has submitted that the applicant was under the impression that his mother's application was under consideration and therefore he had not submitted his application for appointment on compassionate ground immediately after attaining the age of majority. He has submitted that after waiting for a long period, the applicant moved the application for appointment on compassionate ground on 3.9.2009. He has submitted that the said application has been rejected by the impugned communication dtd. 17.10.2012. He has further argued that since the res. no. 2 has not communicated his decision on the application filed by the mother of the applicant dtd. 5.11.2003 to the mother of the applicant, the applicant could not be able to file application in time. But the said fact has not been considered by the respondents. He has submitted that in view of G.R. dtd. 20.5.2015, which has been reproduced in the latest G.R. dtd 21.9.2017 the Government has power to condone the delay of 2

years for filing the application for appointment on compassionate ground by the minors after attaining the age of majority. He has submitted that in view of the said G.R. the Government can condone the delay of 2 years but the said fact has not been considered by the res. no. 2 while considering the application of the applicant and therefore he prayed to issue the directions to the res. no. 2 to reconsider his application in view of new G.R. dtd. 20.5.2015.

8. The learned P.O. has submitted that the mother of applicant viz. Smt. Padmini had already completed age of 45 years when she moved her application for appointment on compassionate ground and therefore she was not eligible to get appointment on compassionate ground. The applicant, who was minor at the time of death of his father, had not moved the application for appointing him on compassionate ground within one year after attaining the age of majority. He has completed his 18 years of age on 10.4.2008. He ought to have filed the application for compassionate appointment on or before 10.4.2009, but he moved his application on 3.9.2009, which was not within time in view of G.R. dtd. 11.9.1996 and the Circular issued by the Director General of Police, Maharashtra State, Mumbai on 13.4.2010. Accordingly the applicant was informed in respect of rejection of

his application by the res. no. 2 by communication dtd. 17.10.2012. He has submitted that at that time there was no provision to condone the delay caused for filing the application by the minor on attaining the age of majority for compassionate appointment and the said provision is made vide G.R. dtd. 20.5.2015, which has been reproduced in the latest G.R. dtd. 21.9.2017. He has submitted that there is no provision to give retrospective effect to the said G.R. and therefore it is not applicable in the present case. He has submitted that the res. no. 2 has rightly rejected the application of the applicant and therefore he prayed to reject the O.A.

9. I have gone through the documents on record. Admittedly, the mother of the applicant had crossed the age of 45 years when she moved the application for appointment on compassionate ground on 5.11.2003 after the death of her husband. Therefore, she was not eligible to get the appointment on compassionate ground.

10. At the time of death of Anand Salve the applicant was minor and he attained the age of majority on 10.4.2008. As per G.R. dtd. 11.9.1996 he ought to have filed the application within one year after attaining the age of majority. It means that, he ought to have filed the application on or before 10.4.2009, but he moved

his application on 3.9.2009. Therefore, the res. no. 2 had rightly rejected the application and informed the decision to him by communication dtd. 17.10.2012. At the time of filing application by the applicant on 3.9.2009 or at the time of rejection of his application, there was no provision to condone the delay caused for filing such applications. The said provision has been incorporated for the first time in the G.R. dtd. 20.5.2015. As there was no provision to condone the delay, the res. no. 2 has rightly rejected the application of the applicant as it was beyond the prescribed period of limitation. Therefore, I find no illegality in the impugned order. Hence, no question of making interference in the O.A. arises. There is no merit in the O.A. Consequently it deserves to be dismissed. Resultantly, the O.A. is dismissed without any order as to costs.

MEMBER (J)