

MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI

ORIGINAL APPLICATION No.04 of 2017

DISTRICT : NASHIK

Smt. Meerabai Kasve,)
Aged 47 years, R/at. Sheetala Mata Nagar,)
Gawli Wada, Malegaon Camp, Malegaon,)
Dist. Nashik.)...**Applicant**

Versus

1. State of Maharashtra, through the Secretary,)
Agriculture Department, Mantralaya,)
Mumbai 400 032.)
2. The Director of Agriculture, Pune Region, Pune,)
Central Building, 17, Dr. Ambedkar Marg, Pune 01.)
3. Dy. Divisional Commissioner, Agriculture Dept.)
Nashik.)
4. Dy. Divisional Commissioner, Agriculture Dept.)
Nashik.)...**Respondents**

Shri M. Harit, Advocate for Applicant.
Smt. Archana B. K., Presenting Officer for the Respondents.

CORAM : SHRI A. P. KURHEKAR , MEMBER (J)

DATE : 21.06.2019

JUDGMENT

1. Heard Shri M. Harit, learned Advocate for the Applicant and Smt. Archana B. K., learned Presenting Officer for the Respondent

2. The matter pertains to the appointment on compassionate ground. The deceased Devram Kasave was an employee with Respondent No.2 and died in harness on 06.10.2011 leaving behind his wife (Applicant), one son namely Shubham and three daughters. After the death of the husband, the Applicant Meerabai had filed an applicant for appointment on compassionate ground on

05.11.2011. In pursuance of the said application, the District Superintendent Agriculture Officer, Nashik by letter dated 06.05.2013 called upon the Applicant to remain present in the office on 16.05.2013 along with documents for appointment on the post of Peon/Watchman. However, again by letter dated 08.05.2013, the District Superintendent Agriculture Officer issued another letter addressed to Applicant stating that she is appointed on the post of Peon/Watchman (Class-IV) and was directed to submit Caste Validity Certificate within 90 days. She was further informed that the appointment order will be issued only on furnishing Caste Validity Certificate. Accordingly, the Applicant has submitted Caste Validity Certificate along with her application on 17.08.2013. However, the District Supt. Agriculture Officer by impugned order dated 14.02.2014 informed the Applicant that she has crossed 45 years of age on 11.05.2013 and, therefore, not entitled for appointment on compassionate ground. The Applicant has challenged this impugned order dated 14.02.2014 in the present O.A.

3. The Respondents resisted the application contending that O.A. is not within limitation and further sought to contend that as the Applicant has crossed the age of 45 years, her name was rightly deleted as there is no provision for substitution of heir.

4. In so far as limitation point is concerned, the Tribunal has already condoned the delay as per order passed in M.A.No.507/2017 which was filed after filing of the O.A. This being so, the question of limitation does not survive.

5. No question comes whether the rejection of application of the Applicant for appointment on compassionate ground is sustainable in law.

6. Learned Counsel for the Applicant has pointed out that the District Supt. Agriculture Officer, Nashik by his letter dated 08.05.2013 had insisted for production of Caste Validity Certificate for issuance of appointment order in terms of G.R. dated 05.11.2009. He has pointed out that in fact this condition

of furnishing Caste Validity Certificate has been already cancelled by the Government in view of G.R. dated 12.12.2011. This being so, the insistence of department for submission of Caste Validity Certificate is obviously erroneous. He has further pointed out that the Applicant has attained 45 years of age of 11.05.2013. This date 11.05.2013 is crucial in the sense her claim was valid till 11.05.2013. Whereas, the District Supt. Agriculture Officer by letter dated 08.05.2013, wrongly insisted for submission of Caste Validity Certificate. Thus, there was no requirement of issuing Caste Validity Certificate on 08.05.2013 and on 08.05.2013 the Applicant was below 45 years of age. This being the admitted position, had District Supt. Agriculture Officer considered that provision of submission of Caste Validity Certificate is already cancelled by G.R. dated 05.11.2009, he was under obligation to issue the order of appointment on compassionate ground. As such, under erroneous view, the issuance of appointment order on compassionate ground was delayed and by that time the Applicant had attained the age of 45 years. In other words, fault and negligence is on the part of District Superintendent Agriculture Officer and the Applicant can't be deprived of her entitlement to the appointment on compassionate ground because of wrong interpretation of provision or in ignorance of law by the concerned officials.

7. Here, it would be apposite to note that at the admission stage itself, this Tribunal has taken note of the negligence on the part of District Superintendent Agriculture Officer, Nashik in issuance of letter dated 08.05.2013 and was directed to take remedial measures to reconsider the claim of the Applicant. Besides, the show cause notice was also issued to District Superintendent Agriculture Officer, Nashik, why suitable action should not be taken against him by order dated 10.11.2017. Despite the order of Tribunal, no remedial measures are taken nor explanation is submitted by the District Supt. Agriculture Officer, Nashik.

8. Now, turning to the entitlement of the Applicant for the appointment on compassionate ground, learned Counsel for the applicant has submitted that the Applicant has now crossed 50 years of age, her son Shubham who has attained majority on 02.04.2018 is willing for the appointment and his name deserves to be considered in place of applicant.

9. In so far as the claim of son of the Applicant is concerned, the Respondents in their written statement in Para 13 stated that claim of the Applicant can be considered after attaining the age of 18 years as per G.R. dated 11.09.1996.

10. In view of aforesaid discussion, obviously the impugned order dated 14.02.2014 rejecting the application on the ground that the Applicant had attained 45 years of age is not at all sustainable in law and facts.

11. As regard entitlement of the appointment to son of the Applicant though he had attained majority on 02.04.2018 and didn't make an application within one year his case deserves to be considered in terms of G.R. dated 20.05.2015 which inter-alia provides for condonation of delay up to two years. By the said G.R. the provision is made that if the application is made within three years from the date of attaining majority, the Competent Authority is empowered to condone the delay and to consider the name of such person for issuance of appointment order.

12. The totality of the aforesaid discussion lead me to sum up that the impugned order is not sustainable in law and deserves to be set aside. As the Applicant has now crossed 50 years of age it would be just an appropriate and in the interest of justice that name of her son Shubham shall be considered for the appointment on compassionate ground. Shubham had already made an application on 11.01.2018 for appointment on compassionate ground. The said application seems not yet decided and pending in the office of Respondent No.3 which requires to be decided expeditiously. Hence the following order.

ORDER

- (A) The Original Application is allowed.
- (B) The impugned order dated 14.02.2014 is quashed and set side.
- (C) The Respondent No.1 is directed to consider the application dated 11.01.2018 made by Shubham for appointment on compassionate ground and pass appropriate order within two months from today.
- (D) The decision on the application made by Shubham on 11.01.0218 be communicated to Shubham within two weeks thereafter.
- (E) If Shubham felt aggrieved by the decision he may avail further remedy in accordance to law.
- (F) The Respondent No.2 is directed to cause enquiry into the matter of issuance of letter dated 08.05.2013 wrongly without taking note of the G.R. dated 12.12.2011 and shall take appropriate action against the concerned District Superintendent Officer as it deems fit.
- (G) No order as to costs.

Sd/-

(A.P. KURHEKAR)
MEMBER (J)

Place : Mumbai

Date : 21.06.2019

Dictation taken by : V.S. Mane

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