

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.1140 OF 2016

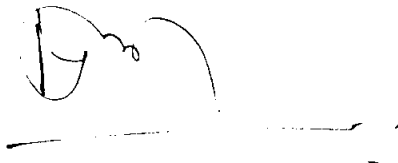
DISTRICT : PUNE

Shri Prasad Vasant Adhav.)
Residing at : C/o. Smt. Vijaya Vasant)
Adhav, Air Force Officers' Servant)
Quarters, Bungalow No.312-D, Lohgaon,)
Pune.)...**Applicant**

Versus

1. The State of Maharashtra.)
Through the Secretary,)
Medical Education & Drugs Dept.,)
G.T. Hospital Complex, Fort,)
Mumbai - 400 001.)
2. The Director.)
Medical Education & Research,)
Govt. Dental College & Hospital)
Building, St. George's Hospital)
Compound, Near CST Station,)
Mumbai 400 001.)
3. The Dean.)
B.J. Medical College & Sassoon)
General hospitals, Pune 411 001.)...**Respondents**

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Ms. S.P. Manchekar, Advocate for Applicant.

Mrs. K.S. Gaikwad, Presenting Officer for Respondents.

P.C. : R.B. MALIK (MEMBER-JUDICIAL)

DATE : 10.08.2017

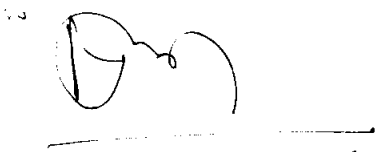
JUDGMENT

1. This Original Application (OA) seeks appointment on compassionate ground and regrettably the only ground on which the appointment has so far not been given to the otherwise eligible Applicant is that, his application was not inworded, although there is convincing material to show that the application was not only made but was processed as well.

2. I have perused the record and proceedings and heard Ms. S.P. Manchekar, the learned Advocate for the Applicant and Mrs. K.S. Gaikwad, the learned Presenting Officer (PO) for the Respondents. The 1st Respondent is the State in Medical Education and Drugs Department, the 2nd Respondent is the Director of Medical Education and Research and the 3rd Respondent is the Dean of B.J. Medical College and Sassoon General Hospital.



3. One Mr. Vasant Adhav was working in the Hospital of the Respondent No.3 as a Ward Boy in Group 'D' cadre. He died in harness on 18.04.2009. The Applicant is his son and from his family, nobody has any objection, if he were to get the appointment on compassionate ground. The Applicant made an application for appointment on compassionate ground. He has filed several documents of contemporaneous vintage which he obtained under Right to Information Act. One such document at Page 24 of the Paper Book (PB) shows that, his application was received on 5.2.2010. There are several other documents to show that, his matter was in the manner of speaking "live". There is a letter dated 3rd March, 2016 from the Government to the Director of Medical Education – Respondent No.2 setting out *inter-alia* the fact that, from a communication of the 3rd Respondent dated 27.1.2016, it appeared as if the record of the application of the Applicant was not traceable in his Office. But at the point of time relevant hereto, the record was sent to the Office of the Collector. The contents in the last Paragraph also in the manner of speaking disapprove of the stand of the 3rd Respondent in this behalf. The sum and substance is that, for such matters, the reference to the Government was unnecessary. It is, therefore, quite clear that the Applicant had applied in good time for



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appointment on compassionate ground and his application was duly numbered also, and therefore, just because the Inward Number was not available, he could not have been denied his rightful entitlement when there was unimpeachable evidence to show that his application was not only received but was processed as well. In Para 13 of the Affidavit-in-reply, some kind of a plea is raised that the original copy of the letter was not given, etc. but that quite clearly is worth nothing because one is here not for any technical consideration but doing substantial justice.

4. I would, therefore, hold that the Applicant had applied in good time and why, in fact, his application was processed also and it appears that, three co-applicants with him who were senior and an equal number who were junior got appointment on 5.10.1995, and therefore, in my opinion, not only does the OA succeed but the case is made out for considering the claim of the Applicant from that very date.

5. This being the state of affairs, I do not think, it is necessary to go that far as to whether there is any need for regularization of the period, etc. which is the alternative claim of the Applicant. In my view, he is entitled to the main relief.

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6. It is held and declared that the Applicant is entitled for being appointed on compassionate ground with effect from 05.10.2015 and in the absence of any other impediment, the Respondent No.3 is directed to process the case of the Applicant and give him an appointment with effect from that date in Group 'D' category. Compliance within six weeks from today. The Original Application is allowed in these terms with no order as to costs.

Sd/-

(R.B. Malik)
Member-J
10.08.2017

Mumbai

Date : 10.08.2017

Dictation taken by :

S.K. Wamanse.

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