

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.128 OF 2020

DISTRICT : THANE

Smt. Manisha Dnyandev Kale.)
[Before marriage – Ms. Manisha)
Pandharinath Dalavi], Age : 35 Yrs.,)
Occu.: Nil, R/o. Shri Swami Samarth)
Society, C-101, Beturkar Pada,)
Khadakpada Road, Kalyan (W),)
District : Thane.)...**Applicant**

Versus

The State of Maharashtra.)
Through Principal Secretary,)
Medical Education & Drugs Dept.,)
Mantralaya, Mumbai – 400 032.)...**Respondent**

Mr. Bhushan A. Bandiwadekar, Advocate for Applicant.

Mr. A.J. Chougule, Presenting Officer for Respondent.

CORAM : SHRI A.P. KURHEKAR, MEMBER-J

DATE : 26.11.2020

JUDGMENT

1. The Applicant has challenged the communication dated 1st October, 2020 whereby the Respondent rejected her claim for appointment on compassionate ground invoking jurisdiction of this Tribunal under Section 19 of the Administrative Tribunals Act, 1985.

2. Undisputed facts for the disposal of the O.A. are as under :-

(i) Shri Pandharinath K. Dalavi (father of the Applicant) was in service who died in harness in 1996 leaving behind widow viz. Smt. Ratan, son viz. Santosh and two daughters viz. Manisha and Tejaswi.

(ii) After the death of Pandharinath, his son Santosh had applied for appointment on compassionate ground and was appointed on 20.06.2009.

(iii) Manisha and Tejaswi got married on 26.04.2007 and 22.05.2011 respectively.

(iv) Santosh got married with Lata on 19.01.2014.

(v) Matrimonial dispute between Santosh and his wife ultimately culminated in Decree of Divorce by mutual consent passed by Family Court on 13.02.2017.

(vi) Santosh (brother of the Applicant) died in harness on 09.10.2017 following Heart Attack.

(vii) Smt. Ratan (mother of the Applicant) had requested the Respondent by application dated 03.11.2017 to appoint her married daughter i.e. present Applicant Manisha on compassionate ground stating that she will be maintaining her.

(viii) However, no decision was communicated to the Applicant or her mother in respect of appointment on compassionate ground.

(ix) The Applicant then availed information under RTI about the status of the application and filed the present O.A. initially for declaration that she be declared eligible for appointment on compassionate ground.

(x) When the matter was taken up for final hearing having noticed that though her application was processed by the Department, there was no communication to the Applicant, the directions were given to the Respondent to communicate the decision immediately.

(xi) Consequently, the Respondent communicated the decision by letter dated 01.10.2020 stating that the Applicant does not fall within category of dependent in terms of G.R. dated 17.11.2016 and not entitled for appointment on compassionate ground.

(xii) Accordingly, the Applicant got amended the O.A. and challenged the communication dated 01.10.2020 contending that it is arbitrary and unsustainable in law.

3. The Respondent resisted the O.A. by filing Affidavit-in-reply *inter-alia* contending that the Applicant being married sister of deceased Santosh cannot be termed as dependent and there is no provision available in Government policy for providing appointment on compassionate ground to the married sister of the deceased employee and the impugned communication does not suffer from any illegality.

4. Heard Shri Bhushan A. Bandiwadekar, learned Advocate for the Applicant and Shri A.J. Chougule, learned Presenting Officer for the Respondent at a length.

5. Shri Bandiwadekar, learned Advocate for the Applicant canvassed that after the death of Santosh, the Applicant though married sister is the only person to look after mother Smt. Ratan, and therefore, keeping in mind benevolent object of the scheme, the Respondent ought to have provided appointment to the Applicant on compassionate ground to tied over the financial difficulties and to maintain her mother Smt. Ratan. He has pointed out that in terms of policy of appointment on compassionate ground, if married daughter is eligible for appointment on compassionate

ground, then it would be unjust and discriminatory to deny the relief of appointment on compassionate ground to married sister. On this line of submission, he contends that the impugned communication is unsustainable in law and directions be given to provide appointment to the Applicant.

6. Per contra, Shri A.J. Chougule, learned Presenting Officer submits that married sister of the deceased does not fall in the category of eligible heir in terms of latest G.R. dated 17.11.2016. He has further pointed out that Smt. Ratan (mother of the Applicant) is pensioner and getting pension of Rs.10,000/- p.m. and this being the position, she cannot be termed unable to maintain herself, and therefore, the claim of married sister of the deceased is totally unsustainable in law.

7. In view of submissions advanced at the Bar, the issue posed for consideration is whether the Applicant who is admittedly married sister of the deceased Santosh can be held eligible for appointment on compassionate ground and in my considered opinion, the answer is in negative.

8. It is trite that the appointment on compassionate ground is not a method of recruitment, but it is facility to provide immediate rehabilitation of the family who is in distress on account of death of sole bread winner of the family. The appointment on compassionate ground cannot be claimed as a matter of right or succession. As such, the claim for appointment on compassionate ground must be in consonance with the policy of the Government and should fall within the eligibility criteria adopted by the Government in this behalf. In other words, the claim for appointment must be traceable only to the scheme framed by the Government and there is no such right whatsoever outside such scheme or policy. The primary object of scheme is to render financial assistance to the bereaved family and it is an exception to the general rule of equality and not another independent or parallel source of employment.

9. Indisputably, Smt. Ratan (mother of the Applicant) is pensioner and she is getting pension of Rs. 10,000/- p.m. by virtue of death of her husband Pandharinath. After the death of Pandharinath, his son Santosh was appointed on appointment on compassionate ground, who too, unfortunately died in harness. Before death, his marriage was dissolved by the Decree of Family Court. Thus, when he died, his marriage was already dissolved. Material to note that, admittedly, the Applicant got married on 26.04.2007, whereas Santosh died on 09.10.2017. Thus, even during lifetime of Santosh, the Applicant was living with her husband and was not dependent upon the deceased Santosh. She got married before 10 years of death of Santosh and is admittedly, living with her husband. This being the position, the Applicant cannot be termed as a dependent of the deceased. In so far as Smt. Ratan (mother of the Applicant) is concerned, she is admittedly a pensioner. True, the fact that the family pension is being received by Smt. Ratan itself could not be basis to deny the benefit of appointment on compassionate ground as urged by the learned Advocate for the Applicant. However, one need to see who are dependent upon the deceased and the claim fits in the policy framed in this behalf. In the present case, the appointment is not rejected on the ground that Smt. Ratan is getting family pension. The claim is rejected on the ground that Applicant being married sister is not eligible for appointment on compassionate ground in terms of policy and Government Resolutions issued in this behalf from time to time. As such, leaving aside the issue of pension, one need to focus on the point as to whether married sister can be held entitled for appointment on compassionate ground in terms of scheme framed in this behalf.

10. Now turning to the scheme of appointment on compassionate ground, the Government had issued various G.Rs from time to time in change social scenario taking note of the decisions of Hon'ble High Court and Hon'ble Supreme Court.

11. Initially, the Government of Maharashtra had issued G.R. dated 26th October, 1994 whereby Rules in respect of giving employment on compassionate ground were revised. The English translation of G.R. dated 26th October, 1994 is as follows :-

“English translation of the abovesaid extract of the said Government Resolution reads thus :

“Government Resolution, General Administration Department No.Comp.1093/2335/M.No.90/93/Eight dated 26 October, 1994.

Revised rules in respect of giving employment in government service on compassionate ground.

(1) These rules shall be applicable to the appointments, to be made on compassionate grounds, in all the offices of the State Government of Maharashtra.

(2) The relatives of the government employees mentioned at 3(A) (including the employees borne on converted permanent and temporary establishments) falling in the below mentioned categories shall be eligible, under these rules for appointment in the government service on compassionate ground.

(a) Employees, died while in government service.

(b) Officers/Employees, retired prematurely under certificate of the competent medical officer, on account of serious ailments like Tuberculosis, Cancer, etc.

(c) Employees, declared incompetent for further service by the Competent medical officer on account of mental or physical disability, who are made to retire prematurely or who have been removed from service on the aforesaid ground.

(d) Employees, who became handicapped on account of accident while discharging their duties, in the Government service, but who did not accept an alternative post in spite of offering it under Rule 72(3) of Maharashtra Civil Services (Pension) Rules, 1982 and opted retirement.

(3) (a) Husband/wife, son or unmarried daughter of the deceased/prematurely retired government employee OR son/unmarried daughter lawfully adopted, before death/premature retirement, shall be deemed to be the relatives eligible to be appointed as per rules. Except them, no other relative shall get the benefit under this scheme.

(b) The said appointment can be given to only one relative of government employees.”

12. Clause 3(a) of G.R. dated 26th October, 1994 which *inter-alia* held unmarried daughter of the deceased eligible for appointment on compassionate ground was subject matter of challenge in **Writ Petition No.1284/2011 (Aparna N. Zambre Vs. Assistant Superintendent Engineer & Ors.) decided on 1st August, 2011**. In that Writ Petition, the appointment was sought by the daughter of the deceased who was unmarried at the time of making an application but got married during the intervening period and ultimately, appointment was rejected on the ground that she being got married not eligible in terms of G.R. dated 26th October, 1994. The Hon’ble High Court held that the condition that daughter should be unmarried as eligible criteria for appointment on compassionate ground is unfair and gender bias. Accordingly, the impugned communication was quashed and directions were issued to provide the appointment to Smt. Aparna Zambre. The Hon’ble High Court held that the eligibility of the Applicant was required to be reckoned with reference to date of her application when she was admittedly unmarried, and therefore, marriage in intervening period does not make her disentitle for appointment on compassionate ground.

13. Consequent to the decision of Hon’ble High Court in **Aparna Zambre’s** case (cited supra), the Government of Maharashtra had issued fresh G.R. on 26.02.2013 (Page No.47 of P.B.) whereby in view of decision of Hon’ble High Court, married daughter was held eligible for appointment on compassionate ground provided that she is the only child and family is depending upon such married daughter. The contents of G.R. dated 26.02.2013 are as follows :-

“संदर्भाधिन क्र.9 च्या शासन निर्णयान्वये अनुकंपा नियुक्तीची सुधारित योजना अंमलात आली. अनुकंपा नियुक्तीसाठी पात्र कुटुंबीयांमध्ये दिवंगत राज्य शासकीय कर्मचा-याची पती/पत्नी, मुलगा किंवा अविवाहित मुलगी अथवा मृत्युपूर्वी कायदेशीररीत्या दत्तक घेतलेला/घेतलेली मुलगा/अविवाहित मुलगी, दिवंगत शासकीय कर्मचा-याचा मुलगा हयात नसेल व त्याच्या कुटुंबातील पात्र नातेवाईका व्यतीरिक्त अन्य कोणीही अनुकंपा नियुक्तीसाठी पात्र नसेल तर त्याची सुन, केवळ अविवाहित शासकीय कर्मचा-यांच्या बाबतीत त्यांच्यावर सर्वस्वी अवलंबून असणारा भाऊ किंवा अविवाहित बहीण, घटस्फोटीत/परित्यक्ता/विधवा मुलगी/बहीण हि नियमानुसार

नेमणुकीस पात्र नातेवाईक मानण्यात येतात. यानुसार कर्मचा-याची विवाहित मुलगी ही अनुकंपा नियुक्तीसाठी अपात्र समजण्यात येत होती. या संदर्भात श्रीमती अपर्णा झांबरे विरुद्ध सहायक अधिक्षक अभियंता, कृष्णा कोयना उपसा सिंचन प्रकल्प मंडळ व इतर प्रकरणी मा. उच्च न्यायालय, मुंबई / मा. सर्वोच्च न्यायालयाने दिलेल्या निर्णयाच्या पार्श्वभूमीवर अनुकंपा नियुक्तीसाठी विवाहित मुलीला पात्र ठरविण्याची बाब शासनाच्या विचाराधीन होती. या अनुषंगाने शासनाने पुढीलप्रमाणे निर्णय घेतला आहे.

शासन निर्णय--

दिवंगत राज्य शासकीय कर्मचा-याच्या कुटुंबामध्ये फक्त विवाहित मुलगी हे एकमेव आपत्य असल्यास किंवा त्यांचे कुटुंब फक्त विवाहित मुलीवर अवलंबून असेल अशा प्रकरणी दिवंगत शासकीय कर्मचा-याची विवाहित मुलगी ही अनुकंपा नियुक्तीसाठी पात्र राहिल.

- २) अनुकंपा तत्वावर नियुक्ती देताना त्या उमेदवाराकडून (विवाहित मुलीच्या बाबतीत तिच्यासह तिच्या पतिकडूनही) दिवंगत शासकीय कर्मचा-याच्या कुटुंबीयांचा तो/ती सांभाळ करील असे प्रतिज्ञापत्र सादर करणे आवश्यक राहिल. मात्र अनुकंपा तत्वावर एकदा नियुक्ती मिळाल्यानंतर तो/ती (उमेदवार) कुटुंबीयांचा सांभाळ करित नसल्याने आढळल्यास त्याची/तीची शासन सेवा तात्काळ समाप्त करण्यात यावी. तरी यासंदर्भात आवश्यक हमीपत्र (undertaking) नियुक्तीपूर्वी यापुढे उमेदवारांकडून स्टॅप पेपरवर घेण्यात यावे.

अविवाहित मुलीला अनुकंपा नियुक्ती मिळाल्यानंतर तिचा विवाह झाल्यास विवाहाच्या दिनांकापासून सहा महिन्यांच्या आत तिच्या पतिकडूनही तसे हमीपत्र घेण्यात यावे.”

14. Later, the G.R. dated 26.02.2013 was also subject matter of discussion in **O.A.No.155/2012 (Kum. Sujata D. Nevase Vs. Divisional Joint Director, Agriculture) decided by this Tribunal on 21.07.2014**. In that case, the father died in 2000 and after his death, the Applicant Sujata who was that time unmarried daughter applied for appointment on compassionate ground. Her name was taken in waiting list. However, she got married in 2006. Therefore, her claim was rejected stating that she being married not eligible for appointment on compassionate ground. The O.A. was allowed and directions were given to appoint Smt. Sujata Nevase on compassionate ground. Apart, directions were also issued to rectify the G.R. dated 26.10.2013 in terms of observation made by the Tribunal in Para No.14 of the Judgment, which is as follows :-

“14. It is pertinent to note that in **Dr. Mrs. Vijaya Arbat's** case (supra), it has been held that the liability of the married daughter to maintain her parents in a proceeding under Section 125 of the Court of Criminal Procedure is very much there. A longish discussion on that particular provision would be out of place. What is however, significant to note is that there are provisions in law, which make sure that the aged and infirm parents as well as the other family members, if eligible and entitled can invoke any of the several provisions of law to get maintenance, and therefore, to link an employee having initially secured

the job on compassionate ground with the liability forever to maintain the family of the deceased and in the event of failure to do so, lose the job itself is absolutely unfair, without any authority of law and unreasonable and is liable to be struck down. The compassionate appointee is as much entitled to the constitutional and legal protection post employment with regard to security of tenure and entitlement to be treated in accordance with law. By a G.R, a new liability to lose the job not provided for in the mother of all laws, any other law, Rules and Conduct Rules, cannot be created. For, to do so would tantamount to creating an artificial group of employees with a liability sans any valid source. In our view, therefore, that particular provision in the 2013 G.R. also cannot survive the test of judicial scrutiny. In what way and under what authority can the husband of the married daughter within six months of the marriage be compelled to give an undertaking in effect to maintain the family of the said deceased is also beyond our comprehension. We would, therefore, conclude in this behalf that within the time limit to be stipulated by us, the State Government should withdraw the 2013 G.R. under reference, failing which it would stand quashed and invalidated. The State Government is, however, at a liberty, if so advised and if so desirous, to bring any other G.R. in the matter in consonance with the mandate of **Aparna Zambre** (supra) or even to provide for any other contingency.

15. The Government carried the matter before Hon'ble High Court in Writ Petition No.1131/2016 and challenged the Judgment dated 27.07.2014 delivered in O.A.155/2012. During the course of hearing, the Hon'ble High Court formulated three issues for consideration and asked the A.G.P. to take instructions in this behalf. The issue posed for consideration were as follows :-

- “(a) Whether the Government Resolution dated 26/2/2013 was issued contrary to the judgment delivered by tis court in the case of Aparna Narendra Zambre & anr. Vs. Assistant Superintendent Engineer and ors. **[2011 (5) Mh.L.J.290]**.
- (b) Whether a married daughter would be deprived of appointment under the compassionate scheme in case the family of the deceased is survived by another male or female child ?

- (c) Whether in the State, female married daughter of a deceased employee is being denied appointment on account of other surviving brother or sister of the applicant.”

16. In view of above, the Government later issued clarificatory G.R. on 27.11.2016 and in view of issuance of said G.R, Writ Petition No.1131/2016 was disposed of as pointed out by the learned Advocate for the Applicant.

17. As such, now latest G.R. holding the field is dated 27.11.2016, which is at Page No.39 of P.B. The material contents of G.R. are as follows :-

“शासन निर्णय--

१. शासन निर्णय क्र. अकंपा/१०१३/प्र.क्र.८/आठ, दि. २६.०२.२०१३ रद्द झाल्याने त्यानुषंगाने तसेच उपरोक्त संदर्भ क्र.१,२ व ३ अन्वये विहित केलेल्या अनुकंपा तत्वावरील नियुक्तीसाठी दिवंगत शासकीय कर्मचा-यांच्या पात्र नातेवाईकांच्या यादीमध्ये सुधारणा करण्यात येत असून खालील नमूद केलेले नातेवाईक हे अनुकंपा नियुक्तीसाठी पात्र राहतील व त्यापैकी एका पात्र नातेवाईकास नियुक्ती अनुज्ञेय राहिल.

१) पती/पत्नी,

२) मुलगा/मुलगी (अविवाहीत/विवाहीत), मृत्युपूर्वी कायदेशीररित्या दत्तक घेतलेला मुलगा/मुलगी (अविवाहीत/विवाहीत)

३) दिवंगत शासकीय कर्मचा-याचा मुलगा नसेल किंवा तो नियुक्तीसाठी पात्र नसेल तर त्याची सून

४) घटस्फोटीत मुलगी किंवा बहीण, परित्यक्ता मुलगी किंवा बहीण, विधवा मुलगी किंवा बहीण,

५) केवळ दिवंगत अविवाहीत शासकीय कर्मचा-यांच्या बाबतीत त्याच्यावर सर्वस्वी अवलंबून असणारा भाऊ किंवा बहीण.

२. अनुकंपा तत्वावर नियुक्ती देण्यापूर्वी संबंधितांकडून दिवंगत कर्मचा-यावर अवलंबून असलेल्या कुटुंबातील अन्य व्यक्तींचा सांभाळ करण्याबाबत प्रतिज्ञापत्र घेण्यात यावे. भविष्यामध्ये सदर प्रतिज्ञापत्राचे उल्लंघन झाल्याबाबतची तक्रार संबंधित कुटुंबातील सदस्यांनी केल्यास सदर तक्रारीची चौकशी संबंधित नियुक्ती प्राधिकारी/शिस्तभंग विषयक प्राधिका-याने करावी. चौकशी अंती अनुकंपा नियुक्तीधारकाने प्रतिज्ञापत्राचे उल्लंघन केल्याचे निष्पन्न झाल्यास त्याला सेवेतून काढून टाकण्याची देखील शिक्षा देता येईल.”

18. Thus, the Government has reformulated the policy in respect of appointment on compassionate ground by G.R. dated 17.11.2016 and later again by G.R. dated 21.09.2017, all existing G.Rs of holding the field are consolidated. In so far as the eligibility is concerned, Para No.1

of G.R. dated 17.11.2016 remained intact as it is and the list of eligible members is reproduced in Para No.17 of the Judgment. In so far as eligibility of sister is concerned, the relevant Clauses are Clause Nos. 4 & 5. As per Clause.4, divorced daughter or divorced sister, deserted daughter or sister, widowed daughter or sister are held eligible. Whereas, as per Clause 5, in case where deceased employee was unmarried and died in harness, in that event, dependent brother or sister are held eligible. Whereas in the present case, the Applicant is admittedly married sister of the deceased. As stated earlier, the Applicant got married on 26.04.2007 and since then admittedly, she is living with her husband. This being the position, she cannot be termed dependent upon deceased Santosh, and therefore, neither Clause 4 nor Clause 5 would attract. After marriage, sister ceased to be the member of the family of the deceased and by no stretch of imagination, she can be termed dependent of the deceased. It is precisely for this reason, married sister is excluded from G.R. dated 27.11.2016. It is only in case of divorced or deserted or widowed sister, she is held eligible for appointment on compassionate ground. This is obviously because of the reason that she would be depending upon deceased by virtue of divorce or desertion, etc. This is not a situation in the present case as admittedly, the Applicant got married in 2007 and since then, she is staying and maintained by her husband. The Applicant's mother Smt. Ratan is admittedly getting family pension. It is nowhere the case of the Applicant that the amount of pension is insufficient for her maintenance. Be that as it may, the Applicant being married sister of the deceased cannot be termed dependent of the deceased, and therefore, she is excluded from the list of dependents in G.R. dated 27.11.2016.

19. The decision in **Aparna Zambre's** case in Writ Petition No.1284/2011 as well as the decision in **Sujata Nevase's** case (O.A.No.155/2012) pertains to the eligibility of unmarried daughter. It is in that context, the scope of G.R. dated 26.10.2013 was discussed. Whereas, in the present case, the matter pertains to claim of married

sister who is admittedly staying with her husband, and therefore, these decisions referred by the learned Advocate for the Applicant are of no assistance to him. The submission advanced by the learned Advocate for the Applicant that as per Government policy, if the married daughter is eligible for appointment on compassionate ground, then no such discrimination could be made in respect of married sister of the deceased is misconceived and fallacious.

20. At this juncture, it would be apposite to refer the Judgments of Hon'ble Supreme Court, which have complete bearing over the present matter.

(A) In **(2008) 15 SCC 560 (Sail Vs. Madhusudan Das (Page Nos.46 in O.A.770/2018))**, the Hon'ble Supreme Court has observed as under :-

“15. This Court in a large number of decisions has held that the appointment on compassionate ground cannot be claimed as a matter of right. It must be provided for in the rules. The criteria laid down therefor, viz. That the death of the sole bread winner of the family, must be established. It is meant to provide for a minimum relief. When such contentions are raised, the constitutional philosophy of equality behind making such a scheme be taken into consideration. Articles 14 and 16 of the Constitution of India mandate that all eligible candidates should be considered for appointment in the posts which have fallen vacant. Appointment on compassionate ground offered to a dependent of a deceased employee is an exception to the said rule. It is a concession, not a right.”

(B) In **(2008) 8 SCC 475 (General Manager, State Bank of India & Ors. Vs. Anju Jain)**, the Hon'ble Supreme Court has observed as under:-

“It has been clearly stated that appointment on compassionate ground is never considered to be a right of a person. In fact, such appointment is violative of rule of equality enshrined and guaranteed under Article 14 of the Constitution. As per the settled law, when any appointment is to be made in Government or semi-government or in public office, cases of all eligible candidates are be considered alike. The State or its instrumentality making any appointment to public office, cannot ignore the mandate of Article 14 of the Constitution. At the same time, however, in certain circumstances, appointment on compassionate ground of dependants of the deceased employee is considered inevitable so that the family of the deceased employee may not starve. The

primary object of such scheme is to save the bereaved family from sudden financial crisis occurring due to death of the sole bread winner. It is an exception to the general rule of equality and not another independent and parallel source of employment.”

(C) In **(2012) 11 SCC 307 (Union of India & Anr. Vs. Shashank Goswami & Anr.)**, the Hon’ble Supreme Court has observed as under :-

“It has been observed that the claim for appointment on compassionate grounds is based on the premise that the applicant was dependent on the deceased employee. Strictly, such a claim cannot be upheld up the touchstone of Article 14 or 16 of the Constitution of India. However, such claim is considered as reasonable and permissible on the basis of sudden crisis occurring in the family of such employee who has served the State and dies while in service, and, therefore, appointment on compassionate grounds cannot be claimed as a matter of right.”

(D) In the matter of **(2010) 11 SCC 661 (State Bank of India & Anr. Vs. Raj Kumar)**, the Hon’ble Supreme Court has observed as under:-

“The dependents of employees, who die in harness, do not have any special claim or right to employment, except by way of the concession that may be extended by the employer under the rules of by a separate scheme, to enable the family of the deceased to get over the sudden financial crisis. The claim for compassionate appointment is, therefore, traceable only to the scheme framed by the employer for such employment and there is no right whatsoever outside such scheme.”

21. In view of aforesaid decision and settled legal position, suffice to say, there cannot be appointment on compassionate ground beyond the scheme framed by the Government and the claim must fit in terms of policy reflected in G.R. dated 27.11.2016. I, therefore, see no illegality in the impugned order and O.A. deserves to be dismissed.

22. Before parting with matter, it is necessary to take note of one aspect. During the course of hearing of the O.A, it was transpired that the application made by the Applicant’s mother on 03.11.2017 was processed by the Respondent and later seems to have formed opinion that the Applicant was not entitled for appointment on compassionate

ground as seen from noting dated 03.02.2018 (Page No.38 of P.B.). However, for more than two years, no decision was communicated to the Applicant. It is on this background, the Tribunal by order dated 29.09.2020 directed Principal Secretary, Medical Education and Drugs Department to file Affidavit as to why the decision was not communicated to the Applicant. It is thereafter only by letter dated 01.10.2020, the communication was served conveying the decision of rejection. It is on this background, Shri Saurav Vijay, Secretary, Medical Education and Drugs Department, Mantralaya in his Affidavit stated that show cause notices were issued to the concerned Officers and Staff who are responsible for the same. The Principal Secretary, Medical Education and Drugs Department should take appropriate action against the concerned within two months and to submit compliance report.

ORDER

The Original Application stands dismissed with no order as to costs.

Sd/-
(A.P. KURHEKAR)
Member-J

Mumbai
Date : 26.11.2020
Dictation taken by :
S.K. Wamanse.

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