

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI**

**ORIGINAL APPLICATION NO.349 OF 2020**

**DISTRICT : PUNE**

Shri Vinod Ashok Lalbige. )  
Age : 38 Yrs., Residing at S.No.25/13/1, )  
Shiv Colony, Dhankawadi, Ambegaon )  
Pathar, Pune – 411 046. )...**Applicant**

**Versus**

1. The State of Maharashtra. )  
Through Principal Secretary, )  
Social Justice & Special Assistance )  
Department, Mantralaya, )  
Mumbai – 400 032. )
2. Additional Director General of Police.)  
Criminal Investigation Department, )  
M.S. Head Quarter, Near Pune )  
University, Pashan Road, )  
Pune – 411 008. )
3. Deputy Inspector General of Police )  
(Administration), Criminal )  
Investigation Department, M.S, )  
Pashan, Pune – 411 008. )...**Respondents**

**Mrs. Punam Mahajan, Advocate for Applicant.**

**Mr. A.J. Chougule, Presenting Officer for Respondents.**

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

**DATE : 07.03.2022**

## **JUDGMENT**

1. The Applicant has challenged the communication dated 24.02.2021 whereby the claim of the Applicant for appointment on compassionate ground in terms of recommendation of Lad-Page Committee has been rejected on the ground that the father of the Applicant was compulsorily retired from service by way of punishment and secondly, he was not appointed as Sweeper so as to attract the recommendations of Lad-Page Committee.

2. Shortly stated facts giving rise to this application are as under :-

Applicant's father viz. Ashok I. Lalbhige was appointed as 'Boy Servant' on the establishment of Respondent No.3 w.e.f.01.04.1970 on remuneration of Rs.75/- p.m. plus usual allowances, as seen from appointment order which is at Page No.51 of Paper Book. Later, he was appointed to the post of Peon by order dated 03.02.1988, as seen from appointment order at Page No.11 of P.B. However, later departmental enquiry (DE) was initiated against him for continuous absenteeism and by order dated 23.04.2008, the punishment of compulsory retirement was imposed invoking Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 (hereinafter referred to as 'D & A Rules of 1979'). The order of compulsory retirement is not challenged and had attained finality. Thereafter, the Applicant applied for appointment on compassionate ground. His father by application dated 08.08.2015 also requested to provide appointment to his son. It appears that Respondent No.3 by letter dated 09.04.2018 sought guidelines from the Government in the light of punishment imposed upon his father. Later, Respondent No.2 – Additional Director General of Police by letter dated 24.02.2021 rejected the claim of the Applicant on the ground that his father was not appointed as Sweeper so as to claim benefit of recommendation of Lad-Page Committee and secondly, he was compulsorily retired from service,

and therefore, the claim for compassionate appointment is not maintainable, which is under challenge in the present O.A.

3. In impugned order, the claim of the Applicant for appointment in terms of Lad-Page Committee has been rejected by following reasons :-

“महाराष्ट्र शासन, सामाजिक न्याय व विशेष सहाय्य विभाग, मंत्रालय, मुंबई यांनी त्यांचेकडील पत्र क्र. याचिका २०२१ अ. क्र.५०/ दि.०४.०२.२०२१ नुसार सामाजिक न्याय व विशेष सहाय्य विभाग, मंत्रालय, मुंबई यांच्याकडील पत्र दिनांक ०४.०२.२००१ अन्वये सामाजिक न्याय विभागाच्या दिनांक २१.१०.२०२१ च्या शासन परिपत्रकातील १(अ) येथील तरतुदीस अनुसरून उपरोक्त दोन्ही अभिप्रायांमध्ये सुधारणा करून खालील प्रमाणे सुधारित अभिप्राय दिलेले आहेत.

श्री. अशोक इमाम लालबिगे यांना त्यांच्या सततच्या गैरहजेरीच्या कारणास्तव शिक्षा म्हणून सक्तीने सेवानिवृत्त करण्यात येत आहे. गैरहजेरीच्या कारणास्तव सक्तीने सेवानिवृत्त केल्यास त्यांच्या वारसास वारसा हक्काने नियुक्ती देण्याबाबत कोणतीही तरतूद नाही.

तसेच लाड समितीच्या शिफारशी या केवळ सफाई कामगारांनाच लागू आहेत. श्री. अशोक इमाम लालबिगे यांची मूळ नियुक्ती 'बॉय सर्वेंट' या पदावर झालेली असल्यामुळे सफाई कामगारांसाठी असलेल्या लाड समितीच्या शिफारशी त्यांना लागू होत नाहीत.”

4. Smt. Punam Mahajan, learned Advocate for the Applicant, however, sought to contend that though initial appointment of the Applicant's father was on the post of Boy Servant, later he is shown as Sweeper in office record and subsequently, w.e.f.01.02.1988, he was appointed as Peon. She has pointed out that where initial appointment is on the post of Sweeper and thereafter, promotion is given in Group 'D' post that would not disentitle for claiming benefit of recommendation of Lad-Page Committee. Thus, according to her, even if subsequently, Applicant's father was appointed as Peon from 01.02.1988, the recommendation of Lad-Page Committee is applicable. As regard compulsory retirement, she tried to contend that retirement includes compulsory retirement in common parlance, and therefore, the ground relied by the Respondents that on account of compulsory retirement of father, the Applicant is not entitled to the appointment is untenable.

5. Per contra, Shri A.J. Chougule, learned Presenting Officer supported the impugned order *inter-alia* contending that Applicant's father was never appointed as Sweeper, but he was appointed as Boy Servant which is different post from Sweeper, and therefore, the recommendation of Lad-Page Committee is not applicable. Secondly,

Applicant's father was subjected to punishment of compulsory retirement and on that ground also, Applicant's claim is not maintainable.

6. The perusal of record reveals that as per Page No.51 of Paper Book, Applicant's father was initially appointed as Boy Servant from 01.04.1970. Later, by order dated 03.02.1988 (Page No.11), he is promoted to the post of Peon w.e.f. 01.02.1988. The order reads as under :-

“आदेश :-

सफाई कामगार अशोक इमाम लालबिगे, गु.अ.वि. (गुन्हे) यांना दिनांक १-२-१९८८ पासून त्याच वेतनश्रेणीत त्याच वेतनावर शिपाई म्हणून गुन्हा अन्वेषण विभाग (गुन्हे), पुणे (सेंट्रल बिल्डिंग) येथे येत आहे.”

7. Thus, in the said order, Applicant's father was referred as Sweeper. True, no such appointment order in the post of Sweeper is forthcoming. The appointment order was on the post of Boy Servant. However, in gradation list, he is shown Sweeper (Page No.105 of P.B.) and again in letter of appreciation (Page Nos.107 & 108 of P.B.), he is shown Sweeper. Thus, it appears that though Applicant's father was appointed as Boy Servant, he was working as Sweeper on the Establishment of Respondent No.3. Otherwise, there was no reason to make reference of his post as Sweeper in the order of promotion dated 03.02.1988, gradation list and letter of appreciation. What is material to see the nature of work extracted from Government servant. As per Circular dated 25.10.2011 issued by Social Justice and Special Assistance Department where Sweeper is promoted in the cadre of Group 'D', the said promotion in Group 'D' will not be hurdle for getting appointment to his heir. Therefore, even if Applicant's father was promoted as Peon, that itself cannot be the ground to deny the benefits of Lad-Page Committee. Suffice to say, even if the appointment was as Boy Servant, basically, he was doing the work of Sweeper and thereafter, he was promoted to the post of Peon. Therefore, ground No.2 mentioned in impugned order that Applicant's father had not worked as Sweeper is totally unacceptable.

8. However, insofar as ground No.1 that Applicant's father was compulsorily retired by way of punishment, and therefore, Applicant cannot claim the benefit of Lad-Page Committee cannot be faulted with. As per Circular dated 21.10.2011, the compassionate appointment is available in following situations.

“(क) वारसा हक्कास पात्र असणा-या व्यक्तीपैकी कोणाही एकास निवृत्त/स्वेच्छा निवृत्त/वैद्यकीयदृष्ट्या अपात्र सेवकाच्या शिफारशीनुसार नोकरी हक्क द्यावा, मात्र मृत सेवकाच्या बाबतीत (अ) मधील पात्र व्यक्तीच्या संयुक्त संमतीपत्राने त्यापैकी एकाच नोकरीत घ्यावे.”

9. It is thus explicit from Circular dated 21.10.2011 in terms of Lad-Page Committee is applicable where there is retirement or voluntary retirement or retirement on medical ground. There is no provision for providing employment where Government servant is subjected to punishment of compulsory retirement. *Ex-facie*, the benefit of recommendation of Lad-Page Committee was to be given where Sweeper rendered faithful service and attain superannuation or took voluntary retirement or declared unfit for continuation medical ground, in that event only, his heir can claim appointment on the post of Sweeper in terms of recommendation of Lad-Page Committee. In other words, the scheme is intended to provide some succor by way of concession, so that family should get some financial assistance. There is no provision in Circular for providing appointment where there is punishment by way of compulsory retirement. Applicant's father was admittedly, subjected to punishment in regular DE and it is by way of punishment, he was compulsorily retired from service. It appears that Government purposely has not included the heir of such a Government servant who is subjected to punishment for getting employment in terms of Lad-Page Committee. Needless to mention, retirement on superannuation or voluntary retirement is one aspect whereas, compulsory retirement by way of punishment is totally different aspects. Thus, apparently, in view of disqualification and punishment incurred by the father, the Applicant cannot claim appointment on compassionate ground in terms of recommendation of Lad-Page Committee. Otherwise, it would amount to

give benefit of the recommendation of Lad-Page Committee to a wrong person who is subjected to punishment which render his heir disqualified for appointment.

10. The totality of aforesaid discussion leads me to sum-up that no illegality can be attributed to the impugned order and challenge is devoid of merit. Hence, the order.

**ORDER**

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

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

Mumbai

Date : 07.03.2022

Dictation taken by :

S.K. Wamanse.

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