

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No.797/2017 (S.B.)

Bhushan s/o Bhaskar Wanjari,
Applicant: - aged about 30 Years, Occu. Nil,
R/o Shanti Nagar, Takaya Ward, Bhandara, District Bhandara.

Applicant.

Versus

- (1) The State of Maharashtra,
through Chief Secretary, Department of Home,
Mantralaya, Mumbai 400032.
- (2) The Special Inspector General of Police,
Nagpur Range, Nagpur.
- (3) The Superintendent of Police, Bhandara.

Respondents.

S/Shri A.V., V.D. Muley, Advocates for the applicant.
Shri A.M. Khadatkar, learned P.O. for the respondents.

**Coram :- Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated :- 18/08/2023.

J U D G M E N T

Heard Shri A.V. Muley, learned counsel for the applicant
and Shri A.M. Khadatkar, learned P.O. for the respondents.

2. The case of the applicant in short is as under –

The father of applicant namely Bhaskar Ramkrushna
Wanjari was in the employment of respondents and was working as
ASI. He died on 14/02/2016 while he was in service. The applicant is

the son of deceased. He applied for appointment on compassionate ground on 16/06/2016. That application is rejected by the respondents on 14/10/2016 on the ground that two brothers of applicant are in service and therefore the applicant cannot claim service on compassionate ground. Therefore, the applicant approached to this Tribunal for the following reliefs –

“(i) Quash and set aside Order / communication dated 14/10/2016 at Annexure A-5 passed by respondent no.3 and the applicant be declared to be legally entitled for compassionate appointment.

(ii) Direct the respondents to appoint the applicant on compassionate grounds.”

3. The O.A. is opposed by the respondent no.3. It is submitted that the applicant's two brothers are in service and therefore as per the scheme, he is not entitled for appointment on compassionate ground. The mother of applicant is also getting family pension. Hence, the O.A. is liable to be dismissed.

4. The applicant has filed rejoinder and submitted that the applicant was dependent of the deceased, his two brothers are residing separately. Therefore, the applicant can claim appointment on compassionate ground.

5. During the course of submission, the learned counsel for applicant has pointed out the Judgment of Hon'ble Bombay High

Court, Bench at Nagpur in Writ Petition No.2274/2017 and the Judgment of this Tribunal in O.A.97/2020, decided on 07/12/2021.

6. The learned counsel for applicant has submitted that brothers of applicant are in service cannot be a ground to reject the claim of applicant. Hence, prayed to allow the O.A.

7. The learned P.O. has pointed out the para-14 of the reply and submitted that one brother of the applicant was appointed in the category reserved for Police Boy and it was communicated to the applicant on 08/04/2017.

8. From the perusal of communication dated 08/04/2017, it appears that claim of applicant is rejected on the ground that two brothers of applicant are in service. This communication nowhere stated that one of the applicant's brothers was appointed by the respondents after the death of father on compassionate ground. The reply of respondent no.3 shows that one of the applicant's brothers was appointed in the Police Department by direct recruitment in the reserved category of Police Boy. That does not mean that he was appointed after the death of father of applicant. There is no dispute that after the death of applicant's father none of the applicant's brothers were appointed by respondent no.3 on compassionate ground. The Hon'ble Bombay High Court, Bench at Nagpur in Writ Petition No.2274/2017 in para-2 has held as under –

“(2) The claim in the petition is for grant of employment on compassionate ground. The father of the petitioner while in service expired on 30/05/2016 leaving behind him, a widow and the two sons. The elder son is employed in the Police Department as a Constable and is married. The facts on record and the report submitted by the Chief Executive Officer, it is apparent that the elder brother Kunal is residing separately along with his wife, since prior to the death of the father. The petitioner is staying along with widow of the deceased employee who is mother. It is obvious that the brother would not be able to maintain the petitioner, the younger brother and the mother, who are residing separately.”

9. Relying on the Judgment of the Hon’ble Bombay High Court, Bench at Nagpur this Tribunal has also granted relief in O.A.No.97/2020 decided on 7/12/2021.

10. The Hon’ble Bombay High Court , Bench at Nagpur has held that one of the brothers of applicant is in service cannot be a ground to reject the claim for appointment on compassionate ground. In the present matter, the applicant has stated in the rejoinder that his two brothers are residing separately and he was dependent of deceased and therefore he is entitled to get service on compassionate ground. Hence, the following order –

ORDER

(i) The O.A. is allowed.

(ii) The respondent no.3 is directed to enter the name of applicant in the waiting seniority list for appointment on compassionate ground and provide him employment, as per rules.

(iii) No order as to costs.

Dated :- 18/08/2023.

(Justice M.G. Giratkar)
Vice Chairman.

dnk.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of P.A. : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 18/08/2023.