

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 39 OF 2019

DISTRICT: - JALGAON.

- 1. Smt. Urmila Pramod Thakur,**
Age : 48 years, Occ. House Hold,
R/o Vaidehi Nivas, Plot No. 41/24,
Building No. 4, Siddhi Vinayak Colony,
Aasava Nagar Piprala Road, Jalgaon,
Tq. & Dist. Jalgaon.

**[Deleted as per the order dated 15.01.2019
passed by this Tribunal.]**

- 2. Aaparna Pramod Thakur,**
Age : 24 years, Occu. Nil,
R/o Vaidehi Nivas, Plot No. 41/24,
Building No. 4, Siddhi Vinayak Colony,
Aasava Nagar Piprala Road, Jalgaon,
Tq. & Dist. Jalgaon.

.. APPLICANT.

V E R S U S

- 1. The State of Maharashtra,**
Through its Principal Secretary,
Vocational Education and Training
Department, Mantralaya,
Mumbai – 431 032.
- 2. The Director,**
Vocational Education and Training,
3, Mahapalika Marg, Dhobi Talao,
Chhatrapati Shivaji Terminus Area,
Fort, Mumbai 400 001.
- 3. The Joint Director.**
Vocational Education and Training,
Regional Office, Trimbak Naka,
Old Agra Road, Nashik-2.

4. The Principal,

Industrial Training Institute,
Shevgaon, Tq. Shevgaon,
Dist. Ahmednagar.

.. RESPONDENTS.

APPEARANCE : Shri. Rahul B. Temak, learned
Advocate for the applicant.

: Mrs. Priya R. Bharaswadkar, learned
Presenting Officer for the respondents.

CORAM : **SHRI B.P. PATIL, VICE CHAIRMAN**

DATE : **18.06.2019**

ORAL ORDER

By filing the present Original Application, the applicant has challenged order dated 09.10.2015 passed by respondent No. 3, the Joint Director, Vocational Education and Training, Regional Office, Trimbak Naka, Old Agra Road, Nashik-2, rejecting her application for appointment on compassionate ground.

2. It is contention of the applicant that deceased Pramod Sakharam Thakur, was her father and he was serving as Craft Instructor on the establishment of respondent No. 3. On 25.10.22014 the father of the applicant died while in service leaving behind him two children i.e. son and daughter & his wife as his legal heirs. After death of Shri Pramod

Sakharam Thakur, the applicant had filed an application dated 31.07.2015 with the respondents claiming appointment on compassionate ground to her as her father was serving as a Craft Instructor in Group 'C' category at the time of his death. But the respondent No. 3, the Joint Director, Vocational Education and Training, Regional Office, Trimbak Naka, Old Agra Road, Nashik-2, rejected her application on 09.10.2015 on the ground that deceased was serving in Group 'B' Category as he was having pay scale of Rs. 5500-9000. It is contention of the applicant that respondents have not considered the provisions of the Government Resolutions issued by the Government from time to time with proper perspective and, therefore, they passed the impugned order dated 09.10.2015 rejecting application filed by her. It is her contention that the impugned order is not legal and, therefore, she prayed to allow the present Original Application by quashing and setting aside the impugned order and also prayed to direct the respondents to appoint her on compassionate ground.

3. Respondent Nos. 1 to 4 have filed affidavit in reply and resisted the contentions of the applicant. It is their contention that deceased Pramod Thakur was serving as

Craft Instructor and was getting pay scale of Rs. 5500 – 9000. It is their contention that the Government has issued Government Resolution dated 02.07.2002 and declared that revised gradation of the employees' i.e. Grade A to D on the basis of pay scale of the posts. As per the Government Resolution, the employee getting pay scale not less than Rs. 9000/- and less than Rs. 11500/- will be covered in Group B category employees. It is their contention that the pay scale not less than Rs. 4400/- and less than Rs. 9000/- is covered in group C category. It is their contention that deceased Pramod Thakur was serving on the post of Craft Instructor having pay scale of Rs. 5500-9000, which comes under Group 'B' category as per the said Government Resolution. According to them, in view of the Government Resolution dated 28th March, 2001 and 22nd August, 2005 the scheme of the appointment on compassionate ground is applicable to the legal heirs of the employees who were working in Group 'C' and 'D' category. As deceased was serving as Craft Instructor having pay scale of Rs. 5500/- to Rs. 9000/- and he becomes Group 'B' employee, his legal heir is not entitled to get appointment on the compassionate ground. Therefore, the respondent No.3 had rightly rejected the application filed

by the applicant praying to give appointment on compassionate ground to her in view of the provisions of the Government Resolutions issued by the Government from time to time and there is no illegality and, therefore, they justified the impugned order.

4. I have heard Shri Rahul B. Temak, learned Advocate for the applicant and Mrs. Priya R. Bharaswadkar, learned Presenting Officer for the respondents. I have perused the application, affidavit, affidavit in reply filed by the respondents. I have also perused the documents placed on record by both the parties.

5. Learned Advocate for the applicant has submitted that respondent No. 3 had rejected the application filed by the applicant only on the ground that deceased i.e. father of the applicant was getting pay scale of Rs. 5500 – 9000, which falls under Group 'B' category, in view of the G.R. dated 02.07.2002. He has submitted that respondent No. 2 has wrongly interpreted the Government Resolution dated 02.07.2002. He has submitted that the employees getting pay scale of Rs. 5500-9000 falls under Group 'C' category as per the said Government Resolution and the said issue has

been decided by the Hon'ble Bombay High Court Bench at Aurangabad by order and judgment dated 05.02.2010 in **W.P. No. 5440/2009 [DINESH S/O SHAMRAO SONAWANE VS. STATE OF MAHARASHTRA AND OTHERS]**, wherein it is observed as under: -

“5. To examine the correctness of this submission, we would straightway refer to Government Resolution dated 02-07-2002. Clause-1 of the said Government Resolution defines the Group-A category. We are not concerned with the said definition. According to the petitioner, the petitioner would be covered by Group-C category, whereas according to the respondents, the petitioner would be covered by Group-B category. Insofar as Group-B category is concerned, it stipulates that in cases where the Pay Scale is not less than Rs. 9000/- and not more than Rs.11500/, the same will be covered by Group-B category. Insofar as Group-C category is concerned, it stipulates that in cases where the Pay Scale is not less than Rs. 4400/- and not more than Rs. 9000/, the same will be covered by Group-C category. As aforesaid, it is not in dispute that that the Pay Scale of late Smt. T.D. Sonawane was Rs. 5500-9000/. The natural meaning to be assigned the above Clauses, in our opinion, is that if the Pay Scale is between Rs.4400/- up to Rs. 9000/, such cases would be covered

by Group-C category, whereas if the Pay Scale is between Rs.9001/- up to Rs.11500/, the same will be covered by Group-B category. If any other interpretation is given to the said clauses, it would create anomalous situation. In much as, a person with the Pay Scale of Rs.9000/- will be covered in Group-B category as well as Group-C category since Pay Scale of Rs. 9000/- is mentioned in both categories. Such interpretation cannot be countenanced. Thus understood, the stand taken by the respondents that the petitioner is ineligible as his case is covered in Group-B category, cannot be sustained. That stand will have to be stated to be rejected since admittedly the Pay Scale of the petitioner's predecessor was Rs.5500-9000.”

6. He has submitted that the said issue has also been dealt with by the Hon'ble Bombay High Court Bench at Aurangabad in W.P. Nos. 2465 & 2467 both of 2016 decided on 02.03.2016.

7. He has submitted that this Tribunal has also decided the similar issue involved in case of similarly situated persons in O.A. No. 594/2017 on 13.03.2018 and granted benefit of the scheme to the similarly situated persons.

8. Learned Advocate for the applicant has submitted that the case of the applicant is squarely covered by the decision rendered by the Hon'ble High Court of Judicature Bombay Bench at Aurangabad, as well as, this Tribunal and, therefore, in view of the provisions laid down in the said decision it can be held that the father of the applicant was serving on the post of Craft Instructor having pay scale of Rs. 5500 – 9000, which comes under Grade 'B' category employee and, therefore, the benefit of the scheme for compassionate appointment should be extended to the applicant and, therefore, he prayed to allow the present Original Application.

9. Learned Presenting Officer has submitted that respondent No. 3 has rightly rejected the application filed by the applicant as deceased Pramod Thakur, who was father of the applicant was serving on the post of Craft Instructor having pay scale of Rs. 5500-9000, which comes under Group 'B' category employees in view of the G.R. dated 02.07.2002 and, therefore, she supported the impugned order and prayed to reject the present Original Application.

10. On going through the record it reveals that the father of the applicant was serving as Craft Instructor and was getting

pay scale of Rs. 5500-9000 at the time of his death. The Government Resolution dated 02.07.2002 provides that the employees getting pay scale less than Rs. 9000 falls under the Group 'C' category. The said issue has been dealt with and decided by the Hon'ble Bombay High Court Bench at Aurangabad in the aforesaid cited decisions and it has been held that employees getting pay scale of Rs. 5500-9000 comes under Group 'C' category. Therefore, the Hon'ble High Court extended the benefit of the scheme for appointment on compassionate ground to the heirs of such deceased employees. Not only this, but this Tribunal has also extended the said relief to the similarly situated persons on the basis of the decision of the Hon'ble High Court.

11. In view of the settled legal principle the applicant is entitled to get the benefits of the said G.R. dated 02.07.2002 and, therefore, the appointment on compassionate ground cannot be denied to the applicant on the ground that her father was serving on the post of Craft Instructor having pay scale of Rs. 5500-9000 and the said pay scale falls under the category of Group 'B' employees. The respondent No. 3 has not considered the said G.R. with proper perspective and wrongly rejected the application filed by the applicant on the

ground that deceased was serving in Group 'B' category. Therefore, the impugned order rejecting the application filed by the applicant is not legal and in accordance with the G.R. dated 02.07.2002. Therefore, it requires to be quashed and set aside by allowing the present Original Application.

12. In view of the discussions in foregoing paragraphs, the present Original Application is allowed. The impugned order dated 09.10.2015 issued by the respondent No. 3 is hereby quashed and set aside. The respondents are directed to decide the application filed by the applicant afresh as per the Rules within a period of three months from the date of this order and communicate the decision therein to the applicant in writing.

There shall be no order as to costs.

VICE CHAIRMAN

PLACE : AURANGABAD.

DATE : 18.06.2019

O.A.NO.39-2019(SB-compassionate appointment)-HDD-2019