

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 654 OF 2017**

**DISTRICT: - AHMEDNAGAR**

**Nilesh Ganpat Khamkar,**

Age : 20 years, Occu : Education,  
R/o. At Post. Nighoj, Post Laxmiwadi,  
Tq. Rahata, Dist. Ahmednagar

.. APPLICANT.

**V E R S U S**

1. The State of Maharashtra,  
Secretary, School & Sports Department,  
Mantralaya, Mumbai-32.

2. The Chief Executive Officer,  
Zilla Parishad, Ahmednagar.

3. The Education Officer (Primary)  
Z.P. Ahmednagar.

.. RESPONDENTS

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**APPEARANCE :** Shri Ashish N. Patil, learned  
Advocate holding for Shri S.G.  
Chapalgaonkar, learned Advocate for  
the applicant.

: Shri S.K. Shirse, learned Presenting  
Officer for the respondent No. 1.

: Shri V.P. Narwade, learned Advocate  
holding for Smt. Manjushri  
Shendase-Narwade, learned Advocate  
for respondent Nos. 2 & 3.

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**CORAM :** **SHRI B.P. PATIL, MEMBER (J)**

**DATE :** **14<sup>TH</sup> JUNE, 2018**  
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**ORDER**

The applicant has challenged the order / communication dated 10.03.2017 issued by the respondent No. 2 rejecting his application for appointment on compassionate ground.

2. Deceased Ganpat Bhaurao Khamkar was father of the applicant. He was serving as Teacher in Zilla Parishad School at Sonewadi, Tq. Kopergaon, Dist. Ahmednagar. On 30.3.2008 he died while in service. After his death, mother of the applicant filed an application with Tahsildar, Rahata, District Ahmednagar, for issuing legal heir certificate. Tahsildar issued the certificate on 22.4.2008. On 16.2.2009, his mother filed an application to the respondent to appoint her on compassionate ground. Thereafter, on 8.6.2015 she gave consent in favour of the applicant to appoint him on compassionate ground as she was suffering from several diseases and also sworn in affidavit in that regard. Accordingly, the applicant has filed an application on 11.6.2015 & 12.4.2016 and prayed to appoint him on compassionate

ground. He has furnished all the documents and necessary information along with the application. The respondents directed the applicant and his mother to submit necessary documents by communications dated 16.1.2016, 20.9.2016, 28.3.2016 and 30.9.2016. It is the contention of the applicant that he acquired educational qualification for appointment on any Class-III or Class-IV posts. They have no source of income. Nobody is earning in their family. In spite of this, respondent No. 3 rejected his application by communication dated 10.3.2017 on the ground that his name cannot be included in the waiting list in place of his mother as there is no provision in that regard. It is his contention that it has been mentioned in the letter that the name of his mother was in the waiting list, but her name had been deleted / removed from the waiting list on crossing her age of 40 / 45 years and, therefore, their applications were rejected. It is his contention that not a single letter was issued to his mother in that regard. It is his contention that the impugned communication dated 10.3.2017 is against the provision of Government Resolutions and not legal and,

therefore, he prayed to quash the impugned communication by allowing the present Original Application.

3. Respondent Nos. 2 & 3 by filing affidavit in reply resisted the contention of the applicant. They have admitted the fact that Shri Ganpat Bhaurao Khamkar was serving as a Primary Teacher in Zilla Parishad and he died on 30.3.2008 while in service. It is their contention that his wife filed an application for appointment on compassionate ground on 20.02.2009. The list of the eligible candidates for the appointment on compassionate ground has been published on the website of the Zilla Parishad. The respondents informed the mother of the applicant about insufficient documents and to supply the same within stipulated time, but the mother of the applicant had not supplied the documents. On the contrary, the applicant has filed application on 11.6.2015 and requested to appoint him on compassionate ground instead of his mother. The mother of the applicant has moved another application for appointment on compassionate ground on 16.2.2009. Again the

respondents informed them to supply the deficit documents by communications dated 19.3.2009 and 21.06.2010.

4. It is their contention that as per the earlier Government Resolution the minimum age criteria for applying for the appointment on compassionate ground was 40 years. The said age limit is extended up to 45 years by the Government Resolution dated 6.12.2010. It is their contention that the applicant is not entitled to get appointment on compassionate ground as per the Government Resolution dated 20.5.2015. It is their contention that as per Government Resolution dated 20.05.2015, there is no provision to substitute the name of the another eligible family member in place of the eligible family member whose name has been recorded in the waiting list of the eligible candidates to be appointed on compassionate ground. The name of another legal heir of family member can be added in the list, in case the eligible family member, whose name is included in the waiting list, dies. It is their contention that the applicant is not entitled to get include his name in the waiting list

instead of his mother and, therefore, the respondents have rightly rejected the application of the applicant. There is no illegality in the impugned order and, therefore, they prayed to reject the present Original Application.

5. I have heard Shri Ashish N. Patil, learned Advocate holding for Shri S.G. Chapalgaonkar, learned Advocate for the applicant, Shri S.K. Shirse, learned Presenting Officer for the respondent No. 1, Shri V.P. Narwade, learned Advocate holding for Smt. Manjushri Shendase-Narwade, learned Advocate for respondent Nos. 2 & 3, at length. I have perused the application, affidavit, affidavit in reply filed on record by the respective parties. I have also perused the documents placed on record by both the sides.

6. Admittedly, Shri Ganpat Bhaurao Khamkar was father of the applicant and he was serving as a Primary Teacher in Zilla Parisahd School at Sonewadi, Tq. Kopargaon, Dist. Ahmednagar. On 30.3.2008 he died while in service leaving behind him the applicant, applicant's mother as legal heirs. Admittedly, after death

of the Ganpat Bhaurao Khamkar, his widow i.e. the mother of the applicant filed an application on 16.2.2009 with the respondents for appointment on compassionate ground along with the documents. Admittedly, her name has been recorded in the waiting list of the candidates, who were eligible for appointment on compassionate ground. This is evident from the letter issued by the Zilla Parishad, Ahmednagar, which is at Exhibit "R-1", page Nos. 34 to 36 of the O.A. On perusal of the list, it reveals that the name of the mother of the applicant has been recorded at Sr. No. 82 of the waiting list and the year of the application was 2009. She was directed by the Zilla Parishad to produce the deficit documents by the letter dated 19.03.2009, as well as, letter dated 21.6.2010, which are at page Nos. 37 & 38 of the O.A. Admittedly, the applicant moved an application dated 11.6.2015 and 12.6.2015 with the respondents along with affidavit of his mother and prayed to appoint him on compassionate ground. His mother gave consent to it. Admittedly, the respondents rejected the said application by the impugned communication dated 10.3.2017 on the ground that

mother of the applicant crossed the prescribed age limit criteria and, therefore, she is not eligible to be appointed on compassionate ground. Moreover, the name of the another heir cannot be entered in the waiting list in place of the eligible member from the family whose name has been recorded in the waiting list as there is no provisions in the Government Resolutions and, therefore, they rejected the request of the applicant to appoint him on compassionate ground.

7. Learned Advocate for the applicant has submitted that initially the mother of the applicant moved an application to appoint her on compassionate ground with the respondents, but no decision was taken by the respondents on her application and the decision if any taken by the respondents has not been communicated to her. Thereafter, applicant filed applications dated 11.7.2015 and 12.4.2018 and requested the applicant to appoint him on compassionate ground on the ground that his mother is suffering from several ailments. He attached the affidavit of the mother along with application. He has submitted that he is possessing required educational



qualification required for the appointment on Class-III or Class-IV posts, but the respondents had not considered his application and rejected it by recording the false reasons, which are in contravention of the Government Resolutions issued by the Government from time to time. Therefore, he prayed to allow the present Original Application and to direct the respondents to consider his case and to appoint him on compassionate ground.

8. Learned Presenting Officer for the respondents has submitted that initially the mother of the applicant has filed an application and on the basis of her application her name has been recorded in the waiting list. Some documents were required and, therefore, she was called upon to produce those documents, but she had not produced it. He has submitted that date of the birth of the mother of the applicant is 22.9.1968. When she moved application on 16.2.2009, she had crossed age of 40 years, which was maximum age limit prescribed in the earlier Government Resolution, but thereafter the said age limit came to be extended up to 45 years by Government Resolution dated 6.12.2010. Considering her date of

birth, the respondents rejected her application on the ground that she crossed the age of 40 / 45 years and, therefore, she was not eligible for appointment on compassionate ground. He has submitted that mother of the applicant has completed her age of 45 years on 22.9.2013 and, therefore, after completion of 45 years of age her name has been removed from the waiting list. Therefore, the subsequent applications filed by the applicant on 11.6.2015 and 12.4.2016 including his name in place of his mother and to appoint him on compassionate ground were not maintainable, as there is no provision in the G.R. in that regard. Therefore, the respondent has rightly rejected the applications filed by the applicant. He has submitted that as there is no provision in the G.R. dated 20.5.2015 to enter name of another family member in place of the eligible heir of the deceased whose name has been recorded in the waiting list, the applications of the applicant came to be rejected. He supported the impugned order.

9. On perusal of the record, it reveals that initially the mother of the applicant moved an application for

appointment on compassionate ground. Documents produced at page Nos. 34 to 36 shows that name of the mother of the applicant has been enrolled in the waiting list in the year 2009 and she was called upon to produce requisite documents from time to time. This fact is evident from page Nos. 37 to 38 of the paper book of the O.A. Admittedly, the date of birth of the mother of the applicant is 22.9.1968. She has completed 45 years of age on 22.9.2013. Therefore, in view of the provisions of G.R. her name came to be removed from the waiting list on completion of 45 years of age. Thereafter, the applicant moved an applications dated 11.6.2015 & 12.4.2016 (Page Nos. 13 & 14 of the O.A.) inserting his name in the waiting list in place of his mother and for giving him appointment on compassionate ground. The said applications came to be rejected by the respondents by the impugned order dated 10.3.2017 (Exhibit 'D' page-25 of the O.A.) by recording the sound reasons. There is nothing on record to show that the name of another family member of the deceased employee can be inserted in place of the eligible family member of the deceased employee whose name has

been recorded in the waiting list of the candidates eligible for appointment on compassionate ground. Since there is no provision in the Government Resolution, the request of the applicant has been rejected by the respondents by recording reasons. Therefore, in my opinion there is no illegality in the impugned order. The respondent No. 2 has recorded sound reasons while rejecting the applications of the applicant by the impugned order dated 10.3.2017. Therefore, no interference is called for in the impugned order. There is no merit in the present Original Application. Consequently, it deserves to be rejected.

10. In view of the above discussions, the present Original Application stands dismissed with no order as to costs.

**MEMBER (J)**

**PLACE : AURANGABAD.**

**Date : 14<sup>TH</sup> JUNE, 2018**

O.A.NO. 654-2017 – compassionate appointment-HDD