

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO.332/2021

DISTRICT:- BEED

Mr. Suraj s/o. Balu Mundhe,
Age : 25 years, Occ. Nil,
C/o. Sominath Dnyanoba Tandale,
At. Tandalyachiwadi, Post. Chakarwadi,
Tq. & Dist. Beed – 431125.

...APPLICANT

V E R S U S

1. The State of Maharashtra,
Through Secretary,
Food, Civil Supplies, Consumer Protection
Department, Madam Kama Road,
Hutatma Rajguru Square, Mantralaya,
Mumbai-400032.
2. The Controller of Legal Metrology,
Maharashtra State, Seventh Floor,
Fountain Telecom Building No.1,
M.G.Road, Hutatma Smark Chowk,
Fort, Mumbai – 400001.
3. The Deputy Controller of Legal Metrology,
Office of the Controller of Legal Metrology,
Seventh Floor, Fountain Telecom Building No.1,
M.G.Road, Hutatma Smark Chowk,
Fort, Mumbai – 400001.

...RESPONDENTS

APPEARANCE : Shri S.T.Chalikwar, Advocate for the
Applicant.
: Shri M.S.Mahajan, Chief Presenting
Officer for the respondents.

**CORAM : JUSTICE SHRI P.R.BORA, VICE CHAIRMAN
AND
SHRI VINAY KARGAONKAR, MEMBER (A)**

Decided on: 03-01-2024

ORAL ORDER

1. Heard Shri S.T.Chalikwar, learned Counsel for the Applicant and Shri M.S.Mahajan, learned Chief Presenting Officer for the respondent authorities.

2. Present applicant has been denied the appointment on compassionate ground for the reason that the deceased Government employee i.e. father of the present applicant was falling in the category of Group-B officers, the legal heirs of whom are not entitled for the compassionate appointment. The order denying or rejecting the claim of the applicant is at paper book page 49, which reads thus:

“प्रति,

श्री. सुरज बाळू मुंढे,
C/O सोमीनाथ ज्ञानोबा तांदळे,
मु. तांदळयाचीवाडी, पो. चाकरवाडी,
ता. जि. बीड—४३११२५.

विषय :- अनुकंपा तत्वावर नोकरी मिळणेबाबत.
संदर्भ :- आपले दि.२६.०८.२०२० रोजीचे पत्र.

उक्त संदर्भिय अर्जांन्वये आपले वडील कै. बाळू पंढरीनाथ मुंढे, हे या यंत्रणेत निरीक्षक, वैध मापन शास्त्र या पदावर कार्यरत होते. त्यांचा दि.११.११.२०१९ रोजी अपघाती निधन झाल्यामुळे, या यंत्रणेत अनुकंपा तत्वावर समावुन घेणेबाबत विनंती केली आहे.

सबब, आपणास कळविण्यात येते की, या यंत्रणेतील निरीक्षक, वैध मापन शास्त्र पदास शासनाने दि.०९.०५.२०१७ पासून राजपत्रित गट—ब चा दर्जा दिल्यामुळे सामान्य प्रशासन विभागाचे शासन निर्णय दि.२१.०९.२०१७ परिशिष्ट—अ, २ (अ) नुसार शासकीय सेवेत असतांना दिवंगत झालेल्या गट—क

व गट—ड संवर्गातील कर्मचा—यांच्या पात्र कुटुंबियांनाच अनुकंपा तत्वावर नियुक्ती अनुज्ञेय राहिल अशी तरतुद आहे. त्यामुळे आपणास या यंत्रणेत अनुकंपा तत्वावर सामावुन घेता येणार नाही.

स्वाक्षरी /—

(शि.स.काकडे)

उप नियंत्रक, वैध मापन शास्त्र,
मुख्यालय, महाराष्ट्र राज्य, मुंबई.

प्रत :-

उप नियंत्रक, वैध मापन शास्त्र, नाशिक विभाग.”

3. The issue raised in the present O.A. is no more res-integra. The Hon'ble Bombay High Court in the case of **Dinesh Shamrao Sonawane vs. the State of Maharashtra & Ors. in Writ Petition No.5440/2009** decided on 05-02-2010 has dealt with the identical issue. In the said case the legal heir of the deceased Government servant, who was working as Craft Instructor in the pay scale of Rs. 5500-9000 had applied for appointment on compassionate ground. The said request was rejected by the concerned department on the ground that the deceased Government servant was drawing wages in the pay scale of Rs. 5500-9000 and was thus the officer falling in the category of Group-B officers. It was further contended that in terms of the G.R. dated 28.3.2001 the appointment on compassionate ground can be extended only to the heirs and legal representatives of the deceased Government employee falling in Group-C or Group-D category. The Hon'ble Bombay High Court rejected the objection so

raised. While rejecting the said objection, the Hon'ble High Court has observed thus :-

“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 to 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.”

4. The facts involved in the present matter are identical to the facts, which existed in the matter before the Hon'ble High Court (cited supra). In the present matter

also the request of the applicant seeking appointment on compassionate ground has been rejected only on the ground that father of the applicant i.e. deceased Government servant was a Group-B officer. Reference is given of the G.R. dated 9.5.2017. We have carefully perused the said G.R. issued by Food, Civil Supplies and Consumer Protection Department of the State. Vide the said G.R., the officers in the said department working on the post of Inspector, Legal Metrology (Non-Gazetted) have been given the status of the Gazetted officers in Group-B. Reading of the said G.R. reveals that the status of the Gazetted officers has been given to the officers working on the post of Inspector, Legal Metrology for the effective implementation of the work being performed by the concerned department. It further reveals that the officers working as Inspectors in the said department were being not held competent to effect the seizure of the weights and measurements, as well as, were being not permitted to work as Assistant Government Pleaders in their matters before the Court for the only reason that they were falling in the category of Group-C employees. It was, therefore, resolved to upgrade their position by awarding them the status of the gazetted officers. It is significant to note that though

the status of these employees was upgraded, there was no increase in their salary and it remained the same. It is thus evident that the said G.R. has been issued for different purposes and on the basis of the said G.R., no such conclusion can be recorded that the deceased Government servant i.e. father of the applicant had become the officer, falling in Group-B category.

5. For classification of the officers, we will have to take into account the G.R. dated 2.7.2002 issued by General Administration Department of the State. As per the said G.R., the Government servant, whose pay scale is not less than Rs. 4400/- and not more than Rs. 9000 would fall in Group-C category. Insofar as Group-B category is concerned, the said G.R. stipulates that in cases where the pay scale is not less than Rs. 9000/- and not more than Rs.11500/- will be covered by Group-B category. In the instant matter, it is not in dispute that the pay scale of the deceased Government servant i.e. father of the applicant was Rs. 5500-9000. As explained by the Hon'ble High Court in the judgment cited supra, the employee drawing wages in the pay scale of Rs.5500-9000 would fall in the Group-C category.

6. In premise of the observations made and the conclusions recorded by the Hon'ble Division Bench of the Bombay High Court in the decision rendered in the W.P. No. 5440/2009, the G.R. dated 27.5.2016 will have to be ignored. No other interpretation can be given of the G.R. dated 2.7.2002 than given by the Hon'ble Division Bench of the High Court in the judgment cited supra. We have, therefore, no hesitation in holding that the deceased Government servant namely Balu Pandharinath Mundhe, father of the present applicant, was the Government employee falling in Group-C category. As such, the respondents have grossly erred in rejecting the request of the applicant for his appointment on compassionate ground.

7. Moreover, as has been pointed out by the learned counsel, the Government vide its resolution dated 27.9.2021 has resolved to consider the cases of the legal heirs of the officers falling even in the category of Group-A and Group-B, for giving them appointments on compassionate ground. The said resolution is made applicable w.e.f. 1.1.2020. In view of the fact that the case of the applicant was under consideration during the meanwhile period, to do substantial justice, even the

benefit of the said resolution also can be extended in favour of the applicant.

8. For the reasons stated above, we are inclined to allow the present Original Application with the following order :-

ORDER

(i) The communication dated 07-10-2020 issued by respondent no.3 is quashed and set aside.

(ii) The respondents are directed to consider the candidature of the applicant for his appointment on compassionate ground and shall include his name in the waiting list being maintained of the candidates eligible to be appointed on the compassionate ground and shall accordingly issue order of appointment as and when the turn of the applicant would come.

(iii) The seniority of the applicant in the waiting list shall be reckoned from the date of filing application by the applicant.

(iv) The Original Application stands allowed in the aforesaid terms, however, without any order as to costs.

(VINAY KARGAONKAR)
MEMBER (A)

(P.R.BORA)
VICE CHAIRMAN

Place : Aurangabad
Date : 03-01-2024.