

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 975 of 2018 (DB)

Gautam S/o Parasram Awchar,
Aged 33 years, Occ. Service,
R/o Aagikheda, Post - Khanapur,
Tah. Patur, District - Akola.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary,
General Administration Department,
Mantralaya, Mumbai-32.
- 2) Department of Water Resources (Irrigation),
Through its Secretary,
Mantralaya, Mumbai-32.
- 3) Executive Engineer,
Vigilance Unit, Amravati Circle,
Water Resource (Irrigation) Department,
Amravati.
- 4) Superintendent Engineer & Co-ordination Officer,
Vigilance Unit, Amravati Circle,
Irrigation Department,
Shivaji Nagar, Amravati.
- 5) Superintending Engineer,
Washim Irrigation Circle,
Washim, District- Washim.

Respondents.

Shri Sheikh Sohailuddin holding for Shri A.S.Dhore, Ld. counsel for the applicant.

Shri S.A.Sainis, Id. P.O. for the respondents.

Coram :- Shri Shree Bhagwan, Vice-Chairman and Shri M.A. Lovekar, Member (J).

Date of Reserving for Judgment : 14th July, 2022.

Date of Pronouncement of Judgment: 25th July, 2022.

JUDGMENT

Per :Vice Chairman.

(Delivered on this 25th day of July, 2022)

Heard Shri Sheikh Sohailuddin holding for Shri A.S.Dhore, Id. Counsel for the applicant and Shri S.A.Sainis, Id. P.O. for the respondents.

2. The applicant's father who was in service of the respondents in the department of Irrigation expired due to heart attack on 26.09.2007. The applicant being the elder son of the deceased and there being the policy of appointing the dependants on compassionate ground had applied for compassionate appointment on Group-C post. Considering his educational qualification the application of the applicant was forwarded for consideration. However, the same was not considered and was kept pending. The applicant had therefore, made several representations. The name of the applicant was entered at Sr. No. 43 in the list prepared by the office of Washim, Irrigation Circle. Though applicant had requested for appointment on compassionate ground in the year 2007 his name was entered at Sr. No. 62 in Group-C post by the Collector, Washim. The respondent no. 5, Superintending Engineer informed the respondent no. 3 that the name of the applicant has been entered in the waiting list for compassionate appointment with retrospective effect from 17.01.2008. The

respondent no. 3, Executive Engineer, gave appointment to the applicant on the post of 'Peon' which is a Group-D post though the applicant was eligible for appointment to Group-C post. The argument of the respondent was that there was no vacant post in Group-C. The applicant being in dire need of service accepted the Group-D post. However, his grievances were not considered and aggrieved with this situation the applicant has approached this Tribunal.

3. Ld. Counsel for the applicant has relied on G.R. dated 21.09.2017 (A-19, Pg. No. 56) which is consolidated G.R. for appointment on compassionate ground issued by G.A.D., Government of Maharashtra. In this G.R. on page no. 63 at point no. 7 following details have been given as to who is responsible for providing information about this scheme i.e. compassionate appointment to dependant of deceased employee. This has been also explained in the G.R. dated 23.08.1996 (A-R-1, Pg. No. 111) and Circular dated 05.02.2010 which is mentioned below the paragraph and also in G.R. dated 20.05.2015. So, it is clear that as per this provision of G.R. it is a duty of the concerned department that within 15 days of death of the employee department should approach the family and provide all the details regarding this scheme and also take details about their qualification and apart from this department is supposed to keep acknowledgment that these details were furnished to the family after 15 days.

4. The Government has issued G.R. dated 23.08.1996. In this G.R. at point no. 4 following provisions has been made. The G.R. is at pages 111 and its provision is on page no. 112 which is reproduced below:-

“४. गट ‘क’ मधील पदांवर अनुकंपा तत्वावर नियुक्तीसाठी पात्र असणा-या कर्मचा-याला पदाच्या उपलब्धते अभावी गट ‘ड’ मधील पदांवर दिल्यास पद उपलब्ध होताच गट ‘क’ मधील पदांवर त्याला प्राधान्याने नियुक्ती देण्यात यावी, अशी नियुक्ती सरळसेवा नियुक्तीने भरण्यात येणा-या पदांवरील समजण्यात यावी. मात्र गट ‘ड’ मधील पदावर अनुकंपा योजनेअन्वये नियुक्ती देण्याच्या आदेशात तसा स्पष्ट उल्लेख करण्यात यावा, तसे करण्यात आले असेल तरच गट ‘क’ मधील पदावर नियुक्ती देता येईल. ”

By the above paragraph it was made mandatory that if dependant of the deceased is eligible for Class-III post but there is no vacancy of Class-III post then the person should be appointed on compassionate ground on Class-IV post as a direct recruitment and it should be mentioned in the order of appointment that as and when vacancy will be available in Group-C post the person will be appointed in Group-C.

5. Ld. P.O. resisted the prayer since he was already appointed on Group-D post which is opposed to provision of para no. 4 of G.R. dated 23.08.1996. Ld. P.O. has also filed **Hon’ble Apex Court Judgment in Civil Appeal No. 6003 of 2021 in case of The State of Uttar Pradesh & Ors. vs. Premlata.** However, facts and circumstances of that case are distinguishable. He has also filed citation of **Hon’ble Apex Court in State**

of Maharashtra & Ors. Vs. Anita And Another, Civil Appeals Nos. 6134-57 of 2016 decided on 12th July, 2016.

6. Ld. counsel for the applicant submitted that he got the information through R.T.I. and as per the information there was vacancy at the relevant time in Group-C also, the document available with the ld. counsel for the applicant through R.T.I. got document, which is at page nos. 82 & 83. At page no. 82, on Sr. No. 16, Junior Clerk in Class-III posts are vacant. Apart from that in Class-C many posts were vacant at the relevant time, it shows that there was vacancy in Group-C. Even then respondents appointed the applicant in Group-D. The ld. counsel for the applicant has filed documents which he has received under R.T.I., relevant document is at pages 84 and in that document in Junior Clerk column at Sr. No. 16 at that time there were vacancies in the Class-III posts.

7. In view of discussions as above, O.A. requires to be partly allowed with following order:-

ORDER

- A. O.A. stands partly allowed.
- B. Order dated 06.12.2016 passed by respondent no. 3 is quashed and set aside. Respondents are further directed to appoint the applicant on Class -III /(C) post if vacancy is existing now within one month and if vacancy is not existing right now, then as and

when first vacancy occurs in Class-C, applicant be given appointment.

C. No order as to costs.

(M.A.Lovekar)
Member(J)

aps

Dated – 25/07/2022

(Shree Bhagwan)
Vice Chairman

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

Name of Steno : AkhileshParasnath Srivastava.

Court Name : Court of Hon'ble Vice Chairman &
Hon'ble Member (J) .

Judgment signed on : 25/07/2022.
and pronounced on

Uploaded on : 26/07/2022.