

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 368 / 2022 (S.B.)**

Sumesh Rajendra Ingle,  
Aged about 26 years, Occ. Nil,  
R/o Near Trimurti Gas Agency,  
Goyanka Nagar, Murtizapur Road,  
Akola, Dist. Akola.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
through its Secretary,  
Ministry of Home Affairs,  
Mantralaya, Madam Kama Road,  
Nariman Point, Mumbai- 32.
- 2) Director General of Police,  
Old Council Hall,  
Maharashtra Police Head Quarter,  
S.B. Marg, Colaba, Mumbai-400 039.
- 3) Deputy Inspector General of Police,  
State Reserve Police Force,  
Hingana Road, Nagpur-440 016.

- 4) The Commander,  
State Reserve Police Force,  
Camp No. 4, Nagpur.

**Respondents**

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**Shri M.G.Sarda, Id. Advocate for the applicant.**

**Shri M.I.Khan, Id. P.O. for the Respondents.**

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**Coram :- Hon'ble Shri M.A.Lovekar, Member (J).**

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**JUDGMENT**

**Judgment is reserved on 13<sup>th</sup> Feb., 2023.**

**Judgment is pronounced on 16<sup>th</sup> Feb., 2023.**

Heard Shri M.G.Sarda, Id. counsel for the applicant and Shri M.I.Khan, Id. P.O. for the Respondents.

2. Case of the applicant is as follows. Rajendra Ingle, father of the applicant was given ad-hoc promotion to the post of A.P.S.I. vide order dated 13.04.2016. By order dated 31.01.2018 (A-R-1) he was posted at the office of Assistant Commandant, Sub Head Office, S.R.P.F., Gadchiroli Head Office from 01.02.2018 to 30.06.2018. He shot himself and committed suicide on 28.04.2018. Since he died in harness applications (A-1, A-2 & A-3) were submitted for giving appointment to the applicant on compassionate ground. In communication dated

11.07.2021 (A-4) addressed to respondent no. 2, respondent no. 4 opined that since deceased Rajendra was holding a Group-B post, his dependent was not eligible to get appointment on compassionate ground. In communications dated 05.09.2019 (A-R-V), 05.05.2022 (A-R-VI) and 24.05.2022 (A-X) identical stand was taken by the respondent department to deny claim of the applicant. Said claim could not have been denied by treating the post held by the deceased as a Group-B post since his promotion to Group-B post was merely ad-hoc and not regular. Hence, this original application.

3. Respondents 2, 3 & 4 have filed separate replies. They admit that promotion to the post of A.P.S.I. given to the deceased was ad-hoc. However, to justify their stand they have raised the following grounds:-

*A. The deceased was holding a Group-B post as reflected in notification dated 15.07.2013 (A-R-II) issued by the Home Department of Government of Maharashtra and also clarified by G.R. dated 27.05.2016.*

*B. The deceased was also drawing the pay scale of Group-B post.*

*C. As per G.R. dated 22.08.2005 (at PP. 42 to 45). Scheme of appointment on compassionate ground is meant only for dependents of Group-C and Group-D employees.*

*D. Clause 3 (2) (a) of G.R. dated 21.09.2017 reiterates that the scheme applies to dependents of only Group-C and Group-D employees. Since this is a matter of policy it cannot be interfered with.*

4. The respondents do not dispute that promotion to the post of A.P.S.I. given to the deceased was ad-hoc. Though the post held by the deceased was a Group-B post and he was getting the pay scale of said post, his promotion to the post was only ad-hoc and not regular.

5. It was argued by Shri Sarda, Id. Counsel for the applicant that since the deceased was holding the promotional post of Group-B only on ad-hoc basis, benefit of compassionate appointment to his dependent could not have been denied. In support of this submission reliance is placed on judgment of the **Hon'ble Bombay High Court delivered on 15.06.2021 in W.P. No. 1071/2019 (Shri Nikhil Maruti Gosarade Vs. The District Collector, Sangli and two others)**. In this case it is observed:-

*"It is also not in dispute that the name of petitioner's late father qua such promotion was never notified in any final list of regularly promoted candidates, which would show that in reality he was never substantively promoted to the Group 'B' post and was kept as an ad-hoc promotee. Merely providing a pay-scale of a higher post, without a regular promotion, would*

*not bring about a situation that the legal character of an ad-hoc promotion order would get transformed into a 'regular promotion order'. In other words, in the present case unless there was to be a conscious act or a decision in law, to regularly promote, by issuance of a regular promotion order in favour of petitioner's late father, by no stretch of imagination and/or by applying any standard, it could have been held that the ad-hoc promotion stood converted into a regular promotion. In regard to the emoluments, the law would require that if an employee is posted on a particular post even temporarily or ad-hoc, he would be entitled to draw the pay-scale and benefits of such post, till he continues to hold such post on the principle of equal pay for equal work. The petitioner's late father being paid the salary or the pay scale of Naib Tahasildar, could not have been any indicia of his regular promotion to the post of Naib Tahasildar in the absence of a regular promotion order issued in his favour. The tribunal has completely ignored these basic facets by inappropriately construing the ad-hoc promotion order as issued to petitioner's late father to be a regular promotion."*

6. In the instant case the aforementioned observations will clearly apply since the respondents do not dispute that the deceased was holding the promotional post only on ad-hoc basis. Hence, the order:-

**ORDER**

- A. The original application is allowed.
- B. The impugned communications dated 05.09.2019 (A-R-V), 05.05.2022 (A-R-VI) and 24.05.2022 (A-X) are quashed and set aside. **The respondents are directed to consider application of the applicant for appointment on compassionate ground as valid so far as his eligibility to make the same is concerned, and decide the same in accordance with law within two months from today.**
- C. No order as to costs.

**(Shri M.A.Lovekar)**  
**Member (J)**

**Dated :- 16/02/2023.**  
**aps**

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

Name of Steno : Akhilesh Parasnath Srivastava.

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

Judgment signed on : 16/02/2023.  
and pronounced on

Uploaded on : 17/02/2023.