

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 580/ 2021 (S.B.)

Prafull Ramdas Wankhade,
Aged about 27 years, Occupation Nil,
R/o C/o Jaipal Tulshiramaji Gadling,
Reosa, Tah. & Dist. Amravati.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary,
Ministry of Tribal Development Department,
Mantralaya, Mumbai- 32.
- 2) The Additional Commissioner,
Tribal Development, Amravati,
Behind T.B. Hospital, Amravati,
Tah. & Dist. Amravati.
- 3) The Project Director,
Integrated Tribal Development Project,
Dharni, Tah. Dharni, Dist. Amravati.
- 4) The Deputy Commissioner,
Tribal Development, Amravati,
Behind T.B. Hospital,
Amravati, Tah. & Dist. Amravati.

Respondents

Shri S.N.Gaikwad, Id. Advocate for the applicant.

Shri H.K.Pande, Id. P.O. for the Respondents.

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

JUDGEMENT

Judgment is reserved on 22nd June, 2023.

Judgment is pronounced on 09th Aug., 2023.

Heard Shri S.N.Gaikwad, ld. counsel for the applicant and Shri H.K.Pande, ld. P.O. for the Respondents.

2. Case of the applicant is as follows. Father of the applicant was working as a Chowkidar in the respondent department. He died in harness on 28.01.2003. At that time the applicant was minor. His date of birth is 30.04.1994. After attaining majority he submitted application (A-1) on 20.04.2015 for appointment on compassionate ground which was forwarded by respondent no. 3 to respondent no. 2 with a positive recommendation. The applicant had been residing with his maternal uncle. He never resided with his mother who is in service. The applicant came to know that his case for appointment on compassionate ground was not favourably considered only because his mother was in service. Since he had not been residing with his mother and was brought up by his maternal uncle, his claim could not have been denied on the aforesaid ground. By communication dated 21.09.2017 (A-3) respondent no. 2 sought guidance from the Commissioner, Tribal Development, Nashik as to whether the applicant could be given appointment on compassionate ground. There was no response to this letter. Hence, this O.A. seeking direction to respondent no. 2 to appoint the applicant on compassionate ground.

3. Respondents 2 & 3 have resisted the O.A. on the ground of limitation and outcome of a preliminary enquiry said to have been

conducted by the department which according to them, exposed falsity of contention of the applicant that all along he was staying with his maternal uncle. In their reply respondents 2 & 3 have pleaded as follows:-

“The applicant has come up with a case that he is not residing with his mother and he is residing with his maternal uncle namely Shri Jaypal Gadling. In view of this affidavit filed by the applicant, the present respondent directed the Project Officer to conduct the enquiry and submit his report. Accordingly Project Officer, Dharni had appointed one inspector of Project Office to make preliminary inquiry and to submit his report. Accordingly enquiry was conducted and it was found that applicant is not residing with his maternal uncle and the villagers of village Rewsa where the maternal uncle is residing have stated in the inquiry that present applicant was never found to be residing with his maternal uncle. Hence after preliminary inquiry it is clear that the applicant has made a false statement on affidavit on 31.12.2016.

As per the law laid down by the Hon'ble High Court and Hon'ble Supreme Court no person can claim appointment on compassionate ground as a statutory right. So also it is clarified by the Hon'ble Courts that such inordinate delay for

appointment on compassionate ground cannot be entertained because the delay itself frustrates the right of person to get appointment. Hence considering this position of law, the applicant is not entitled for any relief from this Hon'ble Tribunal.

8. The General Administration Department by the GR has dated 21.09.2017 has consolidate all earlier GRs. In the said GR the Govt. by relying on the GR dated 26.10.1994 has laid down that the department while issuing appointment order on the compassionate ground must take into consideration the status of the family and should be cautious to see that the person should not take undue benefit of appointment on compassionate ground. As such considering the said guidelines of the State Govt., the answering respondent has made preliminary inquiry into the matter and after inquiry it is found that the applicant's claim is not based upon the correct facts. Therefore, considering the report the answering respondent has rightly denied the appointment on compassionate ground to the applicant."

4. Though it is the contention of the respondents 2 & 3 that preliminary enquiry as aforesaid was conducted, there is nothing on record to substantiate said contention.

5. As mentioned earlier, by letter dated 21.09.2017 respondent no. 2 had sought guidance from the Commissioner, Tribal Development, Nashik as to whether the applicant could be given appointment on compassionate ground. Ends of justice be met if the Commissioner, Tribal Development, Nashik is directed to take decision on the said letter (A-3) and communicate the same to respondent no. 3 within two months from today. The Commissioner, Tribal Development, Nashik shall take a decision on letter dated 21.09.2017 (A-3) and communicate it to respondent no. 2 - within two months from the date of this order. **The O.A. is allowed in these terms with no order as to costs.**

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

Dated :- 09/08/2023.
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 : 09/08/2023.
and pronounced on

Uploaded on : 10/08/2023.