

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 161/2021(S.B.)**

Ku.Omshanti D/o Sitaram Chambhare,  
Aged about 22 yrs Occ : Student;  
R/o Peth Ward, Bramhapuri,  
Dist : Chandrapur.

**Applicant.**

**Versus**

- 1) State of Maharashtra,  
Through its Principal Secretary,  
Revenue & Forest Department,  
Mantralaya, Mumbai-32.
- 2) Principal Chief Conservator of Forest,  
(Head of Forest Force),  
Van Bhavan, Civil Lines,  
Nagpur - 440 001.
- 3) Chief Conservator of Forest,  
Chandrapur Forest Division, Van  
Bhavan, Civil Lines, Nagpur Road,  
Chandrapur - 442 401.
- 4) Deputy Chief Conservator of Forest,  
Bhramhapuri Forest Division,  
Kahali Road, Bramhapuri 441 206  
Dist. Chandrapur.

**Respondents**

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Shri N.D.Thombre, Ld. counsel for the applicant.  
Shri A.M.Khadatkar, Ld. P.O. for the respondents.

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

**Dated: - 29<sup>th</sup> July 2022.**

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## JUDGMENT

**Judgment is reserved on 28 July, 2022.**

**Judgment is pronounced on 29<sup>th</sup> July, 2022.**

Heard Shri N.D.Thombre, learned counsel for the applicant and Shri A.M.Khadatkar, learned P.O. for the Respondents.

2. Case of the applicant is as follows.

Father of the applicant was working as Forester. He died in harness on 25.10.2018. Application for appointment on compassionate ground made by her brother Aryan was rejected vide communication (Annexure A-1). On 16.07.2020 and 28.07.2020 the applicant submitted applications (Annexure A-2 collectively) to respondents 4 and 3, respectively for giving her an appointment on compassionate ground. There were rejected by order dated 02.09.2020 and this rejection was communicated to the applicant by letter dated 23.12.2020 (Annexure A-3 collectively). For rejection the following ground was given-

कु. ओमशांती सिताराम चांभारे यांना कळविण्यात येते की, आपण अनुकंपा तत्वावर नौकरी मिळणेबाबतचा अर्ज या कार्यालयास संदर्भ क्र.४ व ८ अन्वये यादर केलेला आहे. प्रकरणात उपवनसंरक्षक, ब्रम्हपूरी वनविभाग, ब्रम्हपूरी यांचेकडून संदर्भ क्र.९ व ४ अन्वये कै. सिताराम रामचंद्र चांभारे, तत्कालीन वनपाल यांचे मृत्यूनंतर प्राप्त अनुकंपा तत्वावर नौकरी मिळणेबाबतचा अर्ज व त्यासोबत जोडलेल्या

सहपत्राचे अवलोकन केले असता, कै.सिताराम रामचंद्र चांभारे, तत्कालीन वनपाल, ब्रम्हपूरी वनविभाग यांना ४ अपत्य असल्याचे दिसून येते.

सामान्य प्रशासन विभाग, शासन निर्णय क्रमांक अकंपा-१०००/प्र.क्र. २०/आठ, दिनांक २८/०३/२००१ अन्वये दिनांक ३१ डिसेंबर २००१ नंतर तिसरे अपत्य झालेल्या कर्मचा-यांच्या कुटुंबियास अनुकंपा तत्वावरील नियुक्तीसाठी पात्र समजले जात नाही.

श्री.आर्यन सिताराम चांभारे (जन्म तारीख दिनांक १७/०२/२००२) हे कै. सिताराम रामचंद्र चांभारे, तत्कालीन वनपाल यांचे दिनांक ३१/१२/२००१ नंतरचे चवथे अपत्य असल्याचे दिसून येत असल्याने उपरोक्त परिच्छेदामध्ये नमुद शासन निर्णयानुसार आपण किंवा आपले कुटुंबिय अनुकंपा नियुक्तीसाठी पात्र ठरत नाही.

Hence, this application impugning the orders dated 02.09.2020 and 23.12.2020 (Annexure A-3 collectively).

3. In their reply at pp.29 to 37 respondents 1 to 4 have contended that the impugned communications were based on G.R. dated 28.03.2001 which *inter alia* lays down the policy as under-

(इ) दिनांक ३१ डिसेंबर २००१ नंतर तिसरे अपत्य झालेल्या कर्मचा-यांच्या कुटुंबियास अनुकंपा तत्वावरील नियुक्तीसाठी पात्र समजले जाणार नाही.

4. According to these respondents, in view of aforequoted Clause in G.R. dated 28.03.2001 no interference with the impugned orders would be called for.

5. It was submitted by Shri N.D.Thombre, learned Advocate for the applicant that the Clause of G.R. dated 28.03.2001 which was

relied upon by the respondents to reject application of the applicant has been declared to be unconstitutional by the Hon'ble Bombay High Court and hence, the impugned orders cannot be sustained. To support this contention reliance is placed on the judgment dated 05.07.2022 of this Tribunal in O.A.No.158/2021 which refers to the aforementioned binding precedent as follows-

*4. Learned Advocate Shri R.D.Karode for the applicant relied on the judgment of Bombay High Court dated 03.07.2019 in Writ Petition No.7742/2014 (Annexure A-6). According to learned P.O., facts of W.P.No.7742/2014 were completely different and hence no reliance can be placed on this judgment.*

*In para 4 of this judgment it was observed –*

***4. Under the policy of appointment on compassionate basis the Petitioner sought appointment which has been declined to her on the reason that the policy of the State Government prohibits public employment to a person who has begotten a third child after the cut-off date i.e. 31 December 2001. The policy decision concerning appointment on compassionate basis is dated 28 March 2001 and it also contains a stipulation that appointment on compassionate basis would not be granted***

*to the dependent of deceased Government servant who had more than three children.*

*In para 7 it was held-*

*“Notwithstanding there being no prayer to quash the said condition as unconstitutional, we declare the same to be unconstitutional”.*

6. In view of this authoritative pronouncement the application deserves to be allowed. Hence, the order.

**ORDER**

The application is allowed in the following terms-

The impugned orders dated 02.09.2020 and 23.12.2020 (Annexure A-3 collectively) are quashed and set aside.

The respondents shall consider claim of the applicant for appointment on compassionate ground on its own merits by disregarding the prohibition contained in G.R. dated 28.03.2001 since the same has been held to be unconstitutional, and decision in this regard shall be taken and communicated to the applicant within two months from the date of this order. No order as to costs.

(M.A.Lovekar)  
Member (J)

Dated – 29/07/2022

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

Name of Steno : RakshaShashikantMankawde  
Court Name : Court of Hon'ble Member (J) .  
Judgment signed on : 29/07/2022.  
and pronounced on  
Uploaded on : 29/07/2022.