MAHARASHTRA ADMINISTRATIVE TRIBUNAL

NAGPUR BENCH NAGPUR

ORIGINAL APPLICATION NO. 287/2021(S.B.)

Shri Purthaviraj S/o Bakaramji Chavan,
Aged about 42 years, Occ: Driver,
R/o Plot No.32, Suryaday Nagar, Near
Hanuman Mandir, In front of Sai Nagar,
Hudkeshwar Road,
Nagpur-440034.

Applicant.

Versus

1) State of Maharashtra,
Through its Secretary,
Public Health Department,
Mantralaya, Mumbai-400 0001.

2) Commissioner, Employees State
Insurance Scheme, (Public Heath Department)
Government of Maharashtra Panchdeep
Bhavan, 6th Floor, N.M.Joshi Marg,
Lower Parel, Mumbai-400013.

3) Director [Administration]
Employees State Insurance
Scheme, Mantralaya,
Mumbai-440013.

4) Medical Superintendent,
Employees State Insurance
Scheme, Somewaripeth, Nagpur.

5) The Collector, Nagpur,
Dist. Nagpur.

Respondents

Shri R.L.Kadu, Ld. counsel for the applicant.
Shri A.M.Khadatkar, Ld. P.O. for the respondents.

Coram:-Hon'ble Shri M.A.Lovekar, Member (J).
Dated: - 25th August 2022.

JUDGMENT

Judgment is reserved on 18th August, 2022.
Judgment is pronounced on 25th August, 2022.

Heard Shri R.L.Kadu, learned counsel for the applicant and Shri A.M.Khadatkar, learned P.O. for the Respondents.

2. Case of the applicant is as follows.

Bakaram Chavan, father of the applicant was working on the establishment of respondent no.4 on Class-IV post. He applied for voluntary retirement (Annexure A-1) on 03.09.2001 and stood voluntarily retired on 30.11.2001 (Annexure A-2). He died on 05.12.2001 (Annexure A-3) due to ill health. The applicant submitted application dated 12.07.2006 (Annexure A-4) for appointment on compassionate ground. By communication dated 30.09.2009 (Annexure A-7) respondent no.4 informed him that his application was not filed within time. The respondents did not dispute that the applicant was pursuing the matter sincerely. By communication dated 29.07.2011 (Annexure A-2) the applicant was informed as follows-

शासन निर्णय, वित विभाग क्र.असंक-१०१०/प्र.क्र.१/२०१०/वित्तीय सुधारणा-१,
दि.०५.०६.२०१० व शासन निर्णय, वित विभाग क्र.पदनि २०११/प्र.क्र.११०/११/वित्तीय

सुधारणा-१ दि.३०.०६.२०११ अन्वये गट-क व गट-ड संवर्गातील पद भरतीस निर्बंध एक वर्षांसाठी आहे. तथापी दि.२२.०८.२००५ पूर्वीच्या अनुकंपा नियुक्तीच्या प्रतिक्षा सूचीवरील उमेदवारांची पदे सदर निर्बंधातून वगळण्यात आली आहेत.

यास्तव श्री.पृथ्वीराज बकाराम चव्हाण यांचा अनुकंपा तत्वावर नेमणूकीबाबतचा अर्ज दि.१२.०७.२००६ चा असल्याने त्यास निर्बंध आहे. तरी शासनाचे पुढील आदेश निर्गमित होईपर्यंत त्याच्या अनुकंपा तत्वावरील नियुक्ती बाबत निश्चित किती कालावधी लागेल हे कळविणे सध्या शक्य होणार नाही.

3. Further correspondence made by him, too, did not yield any positive result. Considering various GRs governing the issue, the applicant ought not to have been deprived of appointment on compassionate ground. Hence, this application.

4. Reply of respondents 2 to 5 is at pp.105 to 109. It is their case that father of the applicant took voluntary retirement, he died thereafter and hence, the applicant would not be entitled to get appointment on compassionate ground.

5. It is not in dispute that father of the applicant stood voluntarily retired on 30.11.2001 and died on 05.12.2001.

6. In support of his claim, the applicant has relied on G.R. dated 23.08.1996 (Annexure A-15-II). Relevant portion of this G.R. is as under-

शासन निर्णय, सामान्य प्रशासन विभाग, क्रमांक : अकंपा-१०९३/२३३५/प्र.क्र. ९०/९३/आठ, दि.२६ ऑक्टोबर, १९९४ च्या शासन निर्णयानुसार अनुकंपा तत्वावर नियुक्तीची सुधारीत योजना कार्यान्वित केली आहे. या योजनेमध्ये काही बदल करण्याबाबत

विविध विभागांकडून आग्रह धरण्यात येत होता. त्यावर साकल्याने विचार करुन सदर योजनेमध्ये पुढीलप्रमाणे बदल करण्यात येत आहेत :-

२. उपरोक्त शासन निर्णयातील परिशिष्ट 'अ' मधील

(अ) नियम २ (ब) नुसार गट 'क'/'ड' मधील कर्मचा-यांच्या बाबतीत, त्यांच्या वयास अनुक्रमे किमान ५५ वर्षे / ५७ वर्षे पूर्ण होण्यासाठी वैद्यकीय कारणास्तव सेवानिवृत्ती घ्यावी लागलेल्या कर्मचा-यांच्या नातेवाईकांसच या योजनेअंतर्गत लाभासाठी पात्र समजण्यात यावे.

7. The respondents, on the other hand, have relied on G.R. dated 22.08.2005 (Annexure R-1). Relevant portion of this G.R. reads as under-

२. याशिवाय अनुकंपा योजनेच्या सध्याच्या प्रचलित तरतुदीत खालीलप्रमाणे सुधारणा <u>सदर आदेश निर्गमित झाल्याच्या दिनांकापासून</u> करण्यात येत आहेत:-

(१) गट 'क' व 'ड' मधील कर्मचारी कर्करोग, पक्षाघात किंवा अपघात यामुळे सेवेसाठी कायमचा असमर्थ ठरुन रुग्णता निवृत्त झाल्यास त्याच्या कुटुंबियांना गट 'क' व 'ड' मधील पदांवर नियुक्ती देण्याची सवलत रदद् करण्यात येत आहे. <u>यापुढे केवळ सेवेत असतांना दिवंगत झालेल्या गट 'क' व 'ड' च्या कर्मचा-यांच्या पात्र कुटुंबियांनाच अनुकंपा नियुक्ती अनुज्ञेय राहील.</u>

8. Admittedly father of the applicant did not die in harness. He opted for voluntary retirement. After he stood retired in this manner he died. On the basis of this circumstance alone this application is liable to be dismissed. It may be reiterated that the applicant submitted application (Annexure A-4) for appointment on compassionate ground on12.07.2006. On this date G.R. dated 22.08.2005 was applicable. Therefore, even if the application dated 12.07.2006 is taken to be within limitation, the matter

shall fail on merits. The O.A. is accordingly dismissed with no order as to costs.

(M.A.Lovekar)
Member (J)

Dated – 25/08/2022

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 and pronounced on	:	25/08/2022.
Uploaded on	:	25/08/2022.