

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 511/2014**

Smt. Nalutai Ganpatrao Jaunjalkar,  
Aged about 41 years,  
2. Shri Shubham Ganpatrao Jaunjalkar,  
Aged about 19 yrs.  
Both R/o Kasturba Ward Desaiganj,  
Distt. Gadchiroli.

-----**Applicant.**

**Versus**

1. The State of Maharashtra,  
Through its Secretary, Ministry of  
Agriculture,  
Mantralaya Mumbai.
2. The Joint Divisional Director of Agriculture,  
Nagpur Division, Nagpur.
3. The Superintendent Agriculture Officer,  
Gadchiroli, Tah. and Distt. Gadchiroli.
4. The Soil Survey and Soil Testing Officer,  
Gadchiroli,  
Tah. and Distt. Gadchiroli-----

**Respondents-**

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1. Shri N.R. Bhisikar, Advocate for the applicant.
  2. Shri M.I. Khan, Presenting Officer for the Respondents.

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**CORAM :** B. Majumdar : Vice Chairman  
and

S.S. Hingne: Member ( J )

**DATE :** 2<sup>nd</sup> February, 2016

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**ORDER****PER VICE-CHAIRMAN**

The applicants are before us as they are aggrieved that they have not been granted appointment on compassionate grounds. The first applicant's date of birth is 18/3/1969. Her husband, an Agriculture Assistant ( Group-C) died on duty on 9/5/2003 when her son, the 2<sup>nd</sup> applicant, was 10 years old. On 20/10/2003 she applied for appointment on compassionate grounds. On 9/12/2003 the District Superintendent Agriculture Officer, Gadchiroli ( R/3 ) informed the Soil Survey and Soil Testing Officer, Gadchiroli ( R/4 ) that the applicant is required to submit certain documents. On 16/12/2003 R/4 re-submitted the applicant's application to R/2 after complying with the requirements as above. On 28/1/2004 R/3 asked the applicant to submit an affidavit on a stamp paper of Rs.20/- that none of her family member is in govt. service. The applicant's affidavit as above dtd. 5/10/2005 was submitted by the R/3 to R/2 on 24/10/2005. The applicant was placed at Sr. No. 68 in the waiting list of

candidates on compassionate appointment ( Annexure-A-16 ) and the list shows her date of application as 26/10/2005. On 11/9/2009 the applicant no. 2, on attaining majority, applied for compassionate appointment as the first applicant had become 40 years old on 22/8/2005. On 2/1/2012 R/2 informed the first applicant that her name is deleted from the wait list in terms of the G.R. dtd. 22/8/2005 as she had completed the age of 40 years and the application in favour of her son as a substitution is also rejected as there is no provision for substituting a candidate already in the waiting list.

2. The first applicant's submission is that her application dtd. 20/10/2003 which was forwarded by R/4 to R/2 on 5/12/2003 was complete in all respects and it also had included an affidavit which states that no one in her family was appointed on compassionate grounds or is in Govt. service. On 9/12/2003, she was required to submit an affidavit in respect of her maternal name and she <sup>had</sup> done the same. Thus, according to her, she had complied with all the requirements of submitting various documents in respect of her application by

*mt.*

16/12/2003. Thus, the respondents could not have delayed inclusion of her name in the wait list merely on the ground that she had not submitted an affidavit that none in her family is in govt. service.


3. The respondents in their reply submit as follow :-

**Para 9 :** *“ In response to, it is submitted that, the proposal is to be made on compassionate ground as per guidelines issued by the Government of Maharashtra from time to time. There should not be any lacuna while preparing the proposal in all respects. Considering the raised situation it was necessary to prepare fresh proposal by the Respondent No. 4 on compassionate ground in respect of the Applicant No. 1. Respondent No. 4 prepared the fresh proposal duly complied the objection raised and submitted the same to the Respondent N. 2 by the Respondent No. 4 vide its letter No. 235/03 dated 16/12/2003.*

**Para 10 :** *It is denied that, after moving an Application on 09/05/2003 till 16/12/2003 all the requirement and compliances were made by the Applicant No. 1.*

*After scrutiny of proposal on compassionate ground in respect of Applicant No. 1 Respondent No. 2 was returned the proposal to the Respondent No. 3 vide its letter dated 16/02/2004 for compliance of the same. All formalities are to be completed while preparing the proposal on compassionate ground. So that further complications may not be arise in future.*

**Para 11:** *It is submitted that, after compliance of objection by Applicant Respondent No. 3 submitted the proposal to the Respondent N. 2 on compassionate ground vide its letter No.AKPa-Gat-D/7596/A-2/2562/05 dated 24/10/2005. After verifying the same proposal Respondent No. 2 presented the required information from the District Collector, Gadchiroli for preparing consolidated list. On receiving of required information from the District Collector, Gadchiroli name of Applicant No.1 has been taken in the waiting list and shown at Senior No. 68 by the Respondent No. 2."*



4. With regard to the application of the applicant no. 2, the respondents submit that there is no provision for substituting the name of a legal heir once an application is already accepted. It is also submitted that the applicants are not entitled to compassionate appointment as more than 12 years have lapsed since the death of the husband/father .

5. Shri N.R. Bhishikar, the Id. counsel for the applicant relied on the communication dtd. 16/12/2003 vide which the Respondent No. 4 had forwarded the applicant's application to R/2 after she had complied with the requirements as communicated to her earlier. Hence the applicant's case could not have been delayed in absence of completion of the formalities of submission of an affidavit.

6. Shri M.I. Khan, the Id. P.O. reiterated the submissions of the respondents.

7. We find that by way of grounds for rejecting the applicant's application for compassionate appointment , R/2 in his communication dtd. 2/1/2012 states as follows :-

“ शासन निर्णय अंकपा-१००७/१२९५/प्र.क.-१८१/०७/आठ दिनांक २३.४.२००८ अन्वये या कार्यालयाने दिनांक २२.८.२००५ पुर्वीच्या उमेदवारांना वर्ग-३ मध्ये लिपीक पदावर अनुकंपा तत्वावर शासकीय सेवेत नौकरी दिलेली आहे. आपला अर्ज दिनांक २२.८.२००५ नंतरचा असल्याने दिनांक २२.८.२००५ नंतरच्या उमेदवारांना अनुकंपा तत्वावर शासकीय सेवेत सामावून घेण्यात आले नाही. तसेच आपल्याला ४० वर्षे पूर्ण झाल्याने दिनांक २२.८.२००५ च्या शासन निर्णयानुसार प्रतिक्षा यादीमधून आपले नाव कमी करण्यात आलेले आहे.”

8. Thus, the respondents have deleted the applicant's name from the wait list as by the time she became 40 years old, her turn for appointment as per her position ( no. 68 ) on the basis of her application dtd. 22/8/2005 did not come. The applicant has opposed this by stating that the date of her application is required to be taken as 16/12/2003 when R/4 had forwarded her case papers to R/2 after satisfying himself that she had completed all the formalities.

9. The respondents in their reply, the relevant extract of which we have cited as above, submit that the first

applicant's application remained incomplete in absence of the affidavit about non-employment of members of her family in Govt. service and after compliance with this objection it was submitted to the Collector in 2005.

10. We have therefore, examined the issue as to the extent of non-compliance of the requirements of an application due to which the first applicant's case was not registered before 22/8/2005. The sequence of the various developments, as we have noted earlier, is as follows :-

- a) 20/10/2003 : The first applicant applies for compassionate appointment.
- b) 9/12/2003 : R/3 asks R/4 to supply 4 documents.
- c) 16/12/2003 : R/2 re-submits the applicant's application to R/3 after complying with the above .


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- d) 28/1/2004 : R/3 asks the applicant to file an affidavit on a stamp paper of Rs. 20/- that none of the member of her family is in govt. service.
- e) 24/10/2005 : The applicant's affidavit dtd. 5/10/2005 submitted by R/3 to R/2.
- f) 26/10/2005 : The applicant's name is entered in the wait list.

11. From the above, it is clear that the only reason why the applicant's case was not registered earlier to 26/10/2005 is that she had not submitted the affidavit that none in her family is in govt. service.

12. At this juncture certain facts become relevant. The first applicant had applied within 5 months of her husband's death. She was informed about submission of certain documents by R/3 and on her compliance therewith R/4 submitted her papers to R/2 after satisfying himself that the same were complete in all respects. This happened in



2003. In this background, we find it totally unacceptable that her application was <sup>considered as</sup> incomplete only on the ground of absence of an affidavit that none in her family is in govt. service. This is relevant more so as the respondents were aware that when the applicant had applied, she had declared that all her three children were minor and there was no other dependant in her family. In the light of this we are of the view that the absence of the said affidavit cannot be sufficient grounds for delay in registering her name in the wait-list.

13. From the extract of the register of wait listed candidates ( Annexure-A-14 ), we find that it starts with candidate at Sr. No. 42 ( date of application : 1/1/2004 ) and the last candidate in the list to be granted appointment is at Sr. No. 93 ( date of application : 28/6/2007 ). Hence it is obvious that had the applicant's application been registered by ignoring that she had been late in submitting the above affidavit, she too would have been appointed.

14. In view of the above, we hold that the first applicant's application is to be treated as registered on 23/12/2003 after allowing 7 days for it to be forwarded to the Collector after her papers were submitted by R/4 to R/2 on 16/12/2003. She is accordingly required to be placed in the wait list based on the date of her application as 23/12/2003 and appointed.

15. As regards the case of the applicant no. 2, the son of applicant no. 1, we hold that the existing policy of compassionate appointment has no provision for substitution once the name of the beneficiary is accepted and registered in the wait list. This was the view that the Tribunal had taken in O.A. No. 920/2010 ( **Narulla Haq –vs. State of Maharashtra** ) decided on 16/1/2012.

16. Accordingly, the present O.A. is disposed of in terms of the following directions :-

- a) It is held that the date of registration of the first applicant in the wait list for appointment on compassionate ground is 23/12/2003.

b) The respondents will grant an appointment on compassionate ground to the applicant within 10 weeks of receipt of this order.

c) No order as to costs.

sd/-

( S.S. Hingne )  
Member ( J )

sd/-

( B. Majumdar )  
Vice-Chairman.

Skt.