

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,

NAGPUR BENCH, NAGPUR

ORIGINAL APPLICATION NO.619/2017. (S.B.)

Sumit Murlidhar Parnate,
Aged about 22 years,
Occ- Student,
R/o Durganagar, Surbhi Colony,
Akot Road, Shegaon,
Tq. Shegaon, Distt.Buldana.

Applicant.

-Versus-

1. The State of Maharashtra,
Through its Secretary,
Department of Health,
Mantralaya, Mumbai-32.
2. The Dy. Director of Health Services
Akola Circle, Akola.
3. The Medical Superintendent,
Digras Distt. Yavatmal.

Respondents

Shri Sunil Pande, the Ld. Advocate for the applicant.
Shri S.A. Sainis, the Ld. P.O. for the respondents.

Coram:-Shri J.D. Kulkarni,
Vice-Chairman (J)

JUDGMENT

(Delivered on this 28th day of September 2018.)

Heard Shri Sunil Pande, the learned counsel for the applicant and Shri S.A. Sainis, the Ld. P.O. for the respondents.

2. The applicant in this case is claiming that his name shall be included in the list of candidates to be appointed on compassionate ground in view of G.R. dated 20.5.2015. From the admitted facts, it seems that the applicant's mother Smt. Usha Murlidhar Parnate was working as Nurse at Rural Hospital, Digras and she expired on 24.10.2011. Applicant's father intimated this fact of death of Smt. Usha Murlidhar Parnate to the department vide communication dated 29.10.2011. On 8.8.2013, applicant's father submitted an application to the department that his son has attained the age of 18 years in 2013 and he be considered for the post. Vide communications dated 24.9.2013 and 21.1.2014, the Dy. Director of Health Services, Akola Circle, Akola rejected the application on the ground that it was not submitted within one year.

3. The Government issued a G.R. dated 20.5.2015, wherein it is provided that the eligible legal heir of the deceased Govt. servant can apply after attaining the age of 18 years of age and even if there is a delay, it may be condoned and, therefore, the applicant submitted his application after completion of 18 years of age and

requested the authority to consider his claim. However, nothing was done. Hence, this O.A.

4. From the affidavit in reply filed by respondent No.2, it seems that the applicant's proposal was rejected on the ground that he failed to fulfill the terms and conditions of the G.R. dated 20.5.2015 that after attaining the age of 18 years, employee's legal heir has to file an application within one year. The G.R. dated 20.5.2015 is not applicable to the case of the applicant, since his mother died on 24.10.2011. The learned counsel for the applicant submitted that as per the G.R. dated 20.5.2015 (A-6), it has been clearly mentioned that the legal heir of the deceased employee who attained the age of 18 years, has to apply for appointment on compassionate ground within one year of attaining majority and in proper case, such period can be extended by another two years and, therefore, the application of the applicant should have been considered. Relevant para (d) in the G.R. reads as under:-

“अनुकंपा तत्वावर नियुक्तीसाठी पात्र वारसदाराला अर्ज सादर करण्यास २ वर्षापर्यन्तचा विलंब क्षमापित करण्याबाबत:-

शासकीय कर्मचाऱ्याच्या मृत्युनंतर १ वर्षाच्या आत अनुकंपा नियुक्तीसाठी पात्र वारसदाराने अर्ज सादर करणे आवश्यक आहे. तथापि १ वर्षानंतर २ वर्षे इतक्या कालावधीपर्यंत (मृत्युच्या दिनांकापासून ३ वर्षापर्यन्त) अर्ज सादर करण्यास विलंब झाल्यास असा विलंब क्षमापित करण्याचे अधिकार संबंधित मंत्रालयीन प्रशासकीय विभागांच्या विभागप्रमुखांना देण्यात येत आहेत.

दिवंगत शासकीय कर्मचाऱ्याच्या अज्ञान उमेदवाराच्या बाबतीत तो उमेदवार सज्ञान झाल्यावर त्याला अनुकंपा नियुक्तीसाठी अर्ज सादर करण्यास १ वर्षापेक्षा अधिक २ वर्षापर्यंत (सज्ञान झाल्याच्या दिनांकापासून ३ वर्षापर्यन्त) इतका विलंब झाल्यास असा विलंब क्षमापित करण्याचे अधिकार संबंधित मंत्रालयीन प्रशासकीय विभागांच्या विभागप्रमुखांना देण्यात येत आहेत."

5. The learned counsel for the applicant also invited my attention to the application (A-3, Page 15) filed by applicant's father on 8.8.2013. In the said application, it has been mentioned that his son's date of birth was 10.6.1995 and he be considered for appointment on compassionate ground. This was promptly replied by the department i.e. the Deputy Director of Health Services, Akola vide letter dated 24.9.2013 (A.4), whereby it was stated that the application should have been filed within one year This communication was not challenged.

6. The applicant, for the first time applied personally for compassionate appointment on 28.11.2016, i.e., after commencement of the G.R. dated 20.5.2015 and thereafter he made an application on 19.7.2017 as per Annexure A-8. Both these applications are at page Nos. 22 and 23 respectively. Thus, the G.R. dated 20.5.2015 was not in existence when the applicant's mother died. However, even for the argument sake, it is accepted that the

G.R. dt. 20.5.2015 is applicable to the case of the applicant, then as per clause (d), the applicant has to file an application within one year from the date of attaining majority and in any case, within a further period of two years from the date of attaining majority and said period of two years can be condoned by Head of the Department of the Government in peculiar circumstances. In the present case, date of birth of the applicant is 10.6.1995 and, therefore, he has completed 18 years of age on 9.6.2013. It was obligatory for the applicant to file an application within one year from the date of attaining majority i.e. on or before 10.6.2014. Even for argument sake, it is accepted that two years' delay for not filing such application can be condoned as per the G.R. dated 20.5.2015, the application should have been filed before the expiry of such period. In this case, when the application was filed by applicant's father, the applicant was already major and, therefore, the applicant should have filed an application. He has filed first application on 28.11.2016 and the second application on 19.7.2018, i.e. more than three years after attaining majority and, therefore, application has not been filed as per G.R. dated 20.5.2015 within stipulated period and, therefore, considering this aspect, the respondent seems to have rightly rejected the application. I,

therefore, find no merits in this O.A. Hence, I proceed to pass the following order:-

ORDER

The O.A. stands dismissed with no order as to costs.

(J.D.Kulkarni)
Vice-Chairman (J)

Dated:- 28.9.2018.

