

MAHARASHTRA ADMINISTRATIVE TRIBUNAL

NAGPUR BENCH NAGPUR

ORIGINAL APPLICATION NO. 765/2019(S.B.)

Dinesh Gopal Baisware,
Aged -41, Occ. Nil,
C/o. Mr.Umesh Premlal Baisware,
Plot no. 7/8 T.B. Ward,
Dhobi Chawl, Nagpur.

Applicants.

Versus

- 1) The State of Maharashtra,
Through Secretary,
Medical Education and Health Department,
Mantralaya, Fort, MUMBAI.
- 2) Director of Health Education and Research,
Government Dental College
and Hospital Building, 4th Floor
St George's Hospital Area, P'Domelo Road,
Fort, MUMBAI - 400 009.
- 3) Dean,
Government Medical College & Hospital,
Hanuman Nagar, NAGPUR.

Respondents

Shri S.R.Deshpande, Ld. Counsel for the applicant.
Shri H.K.Pande, Ld. P.O. for the respondents.

With

ORIGINAL APPLICATION NO.799/2019(S.B.)

Ravi Krushnarao Londhe,
Aged -31, Occ. Nil,
R/o. Old Babulkheda,
Vasant Nagar Plot no. 67- Lane No. 6,
Post Bhagvan Nagar, Nagpur.

Applicants.

Versus

- 1) The State of Maharashtra,
Through Secretary,
Medical Education and Health Department,
Mantralaya, Fort, MUMBAI.
- 4) Director of Health Education and Research,
Government Dental College
and Hospital Building, 4th Floor
St George's Hospital Area, P'Domelo Road,
Fort, MUMBAI - 400 009.
- 2) Dean,
Government Medical College & Hospital,
Hanuman Nagar, NAGPUR.

Respondents

Shri S.R.Deshpande, Ld. Counsel for the applicant.
Shri H.K.Pande, Ld. P.O. for the respondents.

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

Dated: - 26th June 2023.

JUDGMENT

Judgment is reserved on 15th June, 2023.

Judgment is pronounced on 26th June, 2023.

Heard Shri S.R.Deshpande, learned counsel for the applicants and Shri H.K.Pande, learned P.O. for the respondents.

2. These O.As. involve identical issue. Hence, they were heard together and the same are being decided by this common Judgment.

3. Father of the applicant in O.A.No.765/2019 was holding a Class-IV post of Dhobi. He retired on superannuation on 31.03.2015. Father of the applicant in O.A.No.799/2019, too, was holding a Class-IV post of Ward Attendant. He retired on superannuation on 30.11.2018. The applicants thereafter sought employment in the respondent department by heirship (वारसापध्दती). They did not receive any reply to their applications from the respondent department. Limited prayer made by the applicants is that the respondents be directed to decide their applications for appointment to a Class-IV post by वारसापध्दती, within the stipulated time frame.

4. The applicants have relied on Circular dated 14.04.1981 (Annexure A-3) and G.R. dated 21.10.2011 (Annexure A-4) issued by the Department of Social Justice and Special Assistance, Government of Maharashtra. The aforesaid Circular is as under-

सामान्य प्रशासन विभाग क्र. आरटीआर १०६७/सी/१००९१ दिनांक २
डिसेंबर १९६८ च्या - शासन परिपत्रकानुसार तृतीय व चतुर्थ श्रेणीतील एक

महिन्यापेक्षा अधिक कालावधीकरिता भरण्यात येणाऱ्या पदांवर सेवायोजन कार्यालयाने पुरस्कृत केलेल्या उमेदवारांमधून नेमणूक करावी असे बंधन आहे. प्रस्तुत आदेश शिथिल करून चतुर्थ श्रेणीतील निवृत्त कर्मचारी अथवा या श्रेणीतील एक वर्षाच्या कालावधीमधील निवृत्त होणारे कर्मचारी यांच्या मुलास / अविवाहित मुलीस शासन सेवेतील चतुर्थ श्रेणी पदांवरील नोकरीसाठी विशेष बाब म्हणून सेवायोजन कार्यालयाच्या शिफारशीची अट खालील शर्तीवर रद्द करण्याचा शासनाने निर्णय घेतला आहे.

१. उमेदवारांनी चतुर्थ श्रेणीतील पदांकरिता विहित कारण्यात आलेल्या सेवा प्रवेश नियमातील शैक्षणिक अहर्ता वय या अटीची पूर्तता करणे आवश्यक आहे.
२. चतुर्थ श्रेणीतील निवृत्त किंवा एक वर्षाच्या कालावधीमध्ये निवृत्त होणाऱ्या कर्मचाऱ्यांच्या फक्त एका मुलास किंवा अविवाहित मुलीस फक्त चतुर्थ श्रेणीतील पदांवर नेमणुकांकरिता सेवा योजना कार्यालयाच्या शिफारशीची अट रद्द करण्याची सवलत दिली जाईल.
३. सेवायोजन कार्यालयाच्या शिफारशीची अट जरी रद्द करण्यात आली असली तरी अर्जदार उमेदवाराने अर्ज करण्यापूर्वी आपले नाव आवश्यक आहे.

So far as this Circular is concerned, stand of the respondents is that it only dispenses with recommendation of the concerned agency keeping in tact rest of the requirements for giving employment by वारसापध्दती-

5. So far as the aforesaid G.R. is concerned, the applicants have relied on the following Clause contained in it –

(क) वारसा हक्कास पात्र असणाऱ्या व्यक्तीपैकी कोणाही एकास निवृत्त / स्वेच्छा निवृत्त / वैद्यकीयदृष्ट्या अपात्र सेवकाच्या शिफारशीनुसार नोकरी हक्क घावा, मात्र मृत सेवकांच्या बाबतीत (अ) मधील पात्र व्यक्तीच्या संयुक्त संमतीपत्राने त्यापैकी, एकास नोकरीस घ्यावे.

In respect of G.R. dated 21.10.2011 stand of the respondents is that it is applicable only to the dependents of Safai Kamgar and hence benefit of the same cannot be extended to the applicants.

6. The respondents have relied on G.Rs. dated 26.10.1994 (Annexure R-1) and 22.08.2005 (Annexure R-2) to contend that since the applicants are seeking appointment on compassionate ground on retirement of their father, their claim is liable to be rejected because the Scheme for giving appointment on compassionate ground does not provide for the same.

7. In these cases the question is not of giving appointment on compassionate ground but of giving appointment by heirship/ वारसापध्दती pursuant to recommendation of Lad/Page Committee.

8. It is the contentions of the respondents that appointment by heirship can be given only to dependents of Safai Kamgar. Father of the applicant in O.A.No.765/2019 was working as Dhobi whereas father of the applicant in O.A.No.799/2019 was working as Ward Attendant.

To resolve the issue reliance may be placed on **Sampati Baburao Randhiva Versus the State of Maharashtra and Others (Judgment of Bombay High Court dated 24.08.2022) W.P.No.4444 OF 2021** wherein it is held.

4. There can be no dispute about the fact that the recommendations of the Lad Commission merely covered the employees which were essentially scavengers from group-IV. Though an endeavour has been made by the petitioner to point out that at times his father was required to perform some duties which were akin to that of a scavenger or सफाई कामगार, there can be no dispute about the fact that his father was appointed as a gardener which is described as 'Nursery Assistant' in the Recruitment Rules applicable to the respondent Dairy Department which have been published on 29.01.2018.

5. If such is the state of affairs, no exception can be taken to the communication whereby the petitioner's proposal has been turned down on the sole ground that his father was a nursery assistant (माळी) and not a sweeper or scavenger to whom the recommendation of the Lad Commission have been made applicable by the Government.

9. As mentioned earlier, specific stand of the respondents is that the applicants cannot claim benefit of appointment by heirship because such benefit can be extended only to dependents of Safai Kamgar. Since this

stand is supported by the above referred binding precedent, it would be an exercise in futility to direct the respondents to decide applications / claims of the applicants for giving them appointment on Class-IV post on the basis of heirship. For these reasons the O.As. are dismissed with no order as to costs.

(M.A.Lovekar)
Member (J)

Dated – 26/06/2023
rsm.

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

Name of Steno : Raksha Shashikant Mankawde
Court Name : Court of Hon'ble Member (J).
Judgment signed on : 26/06/2023.
and pronounced on