

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 892/2019(S.B.)

Smt. Sadhana W/o. Vilas Lohkare,
[nee Sadhna D/o. Ramesh Wandile]
Aged about 30 yrs., Occu. : Housewife
Plot No.62, Nr.Hanuman Mandir,
Ashirwad Nagar, Surana Layout Nalwadi,
Wardha 442001.

Applicant.

Versus

- 1) State of Maharashtra,
Through Hon. Home Secretary,
Mantralaya, Mumbai 32.
- 2) Director General of Police
Office of Director General of Police,
Shahid Bhagat Singh Marg,
Colaba, Mumbai.
- 3) Special Inspector General of Police,
Office of Special Inspector General of Police,
Nagpur Range, Nagpur.
- 4) Superintendent of Police,
Wardha.

Respondents

Shri A.T.Purohit, Ld. counsel for the applicant.
Shri S.A.Sainis, Ld. P.O. for the respondents.

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

Dated: - 06th July 2022.

JUDGMENT

Judgment is reserved on 01nd July, 2022.

Judgment is pronounced on 06th July, 2022.

Heard Shri A.T.Purohit, learned counsel for the applicant and Shri S.A.Sainis, learned P.O. for the Respondents.

2. In this application order dated 06.11.2018 (Annexure A-18) passed by respondent no.4 rejecting application of the applicant for appointment on compassionate ground, is impugned.

3. Case of the applicant is as follows.

Ramesh Wandile, father of the applicant died in harness on 23.03.2012. He was holding the post of Assistant Sub-Inspector. Elder sister of the applicant is married. She has surrendered her claim for appointment on compassionate ground. Elder brother of the applicant is serving as Police Head Constable. The applicant is the only issue of the deceased seeking appointment on compassionate ground. After her father's death marriage of the applicant was solemnized on 01.06.2012. The respondent department was duty bound to inform dependents of the deceased about their right to apply for appointment on compassionate ground, as per G.R. dated 23.08.1996 (Annexure A-1). G.R. dated 26.02.2013 (Annexure A-3) has been substituted by G.R. dated 17.11.2016

(Annexure A-4). As per the latter G.R. the applicant, though a married daughter of the deceased, is eligible to seek appointment on compassionate ground. Being eligible and qualified she made an application (Annexure A-5) on 03.02.2017 to respondent no.4. Respondent no.4 kept it pending. Respondents 3 & 2 asked respondent no.4 to decide the application of the applicant as per G.R. dated 21.09.2017 (Annexure A-7). In G.R. dated 21.09.2017 of previous G.Rs. issued by Government of Maharashtra about appointment on compassionate ground have been compiled. The applicant pursued the matter and had to approach the Hon'ble Chief Minister and Home Ministry. Respondent no.4 at last rejected application of the applicant by order dated 06.11.2018 (Annexure A-18). Hence, this application.

4. Reply of respondent no.4 is at pp.177 to 180. Respondent no.4 has resisted the application on the following grounds-

(1) Mother of the applicant is getting pension of Rs.19,750/- per month.

(2) The applicant is not the only daughter of deceased, further it is not the case of the applicant that her mother or any other LR's of deceased are dependent on her. On the contrary, the applicant and other L.R's of deceased are financially sound.

(3) The applicant is only misinterpreting the G.R. dated 17.11.2016. However, the said G.R. dated 17.11.2016 is very clear on the point of dependent.

(4) The representation filed by the applicant after about 5 years is itself time barred.

5. The impugned order of rejection (Annexure A-18) is tried to be supported by 4 grounds. The first ground is as follows.

महाराष्ट्र शासन सामान्य प्रशासन विभाग शासन निर्णय क्र.अकंपा/१००४/प्र.क. ५१/२००४ आठ दिनांक २२/८/२००५ अन्वये पोलीस कर्मचारी दिवंगत झाल्याचे दिनांकापासून एक वर्षाच्या मुदतीस परिपूर्ण कागदपत्रासह विहित नमुन्यात परिपूर्ण अर्ज सादर करणे आवश्यक आहे. परंतु आपला अनुकंपा तत्वावरील नियुक्ती मिळण्यासाठीचा अर्ज आपले वडीलांचे मृत्यू दिनांका पासून जवळपास ५ वर्ष उशीराने सादर केला असून सदर अर्ज विहित कालावधीत म्हणजे एक वर्षाच्या आत सादर केलेला नाही.

So far as this ground is concerned, learned advocate for the applicant invited attention of the Tribunal to internal page 8 of G.R. dated 21.09.2017 (Annexure A-7) wherein it is stipulated –

(७) योजनेची माहिती देण्याची जबाबदारी-

(अ) आस्थापना अधिका-याने अनुकंपा तत्वावर नियुक्तीच्या योजनेची माहिती (योजनेचा उद्देश, पात्र नातेवाईक, अर्ज करण्याची मुदत, शैक्षणिक अर्हता, टंकलेखन प्रमाणपत्र सादर करण्यास मुदत अर्ज विहित नमुन्यात भरणे इ.माहिती) शासकीय कर्मचा-याच्या मृत्यूनंतर १५ दिवसानंतर किंवा कुटुंबनिवृत्तीवेतनाची कागदपत्रे पाठविताना शासकीय कर्मचा-यांच्या कुटुंबियांना त्वरीत उपलब्ध करून देणे आवश्यक आहे. तसेच सदर माहिती मिळाल्याबाबत कुटुंबाकडून पोच घेणे आवश्यक आहे. (शासन निर्णय, दि.२३.०८.१९९६ व शासन परिपत्रक दि.०५.०२.२०१०)

It is not the case of the respondent department that it had discharged its duty of apprising the dependents of the deceased about the scheme of appointment on compassionate ground. Therefore, respondent no.4 cannot be permitted to say that the application for appointment on compassionate ground was filed long after the period stipulated therefor had come to an end.

6. The second ground of rejection is as under –

महाराष्ट्र शासन निर्णय क्रमांक अकंपा १०१३/प्र.क्र.८/आठ दिनांक २६/०२/२०१३ अन्वये दिवंगत राज्य शासकीय कर्मचा-याच्या कुटुंबामध्ये फक्त विवाहीत मुलगी हे एकमेव अपत्य असल्यास किंवा त्यांचे कुटुंब फक्त त्या विवाहीत मुलीवर अवलंबून असेल अशा प्रकरणी दिवंगत शासकीय कर्मचा-याची विवाहीत मुलगी अनुकंपा नियुक्ती साठी पात्र राहिल असे नमुद आहे. परंतु आपल्याला एक मोठी विवाहीत बहीण तसेच विवाहीत भाऊ असून आपण मृतक रमेश वांदिले यांचे एकमेव विवाहीत अपत्य नसल्याने मृतक पोलीस कर्मचारी यांचे कुटुंब आपल्यावर अवलंबून नाही.

So far as this ground is concerned, reliance is placed by the applicant on G.R. dated 17.11.2016 (Annexure A-4). This G.R. was issued in consequence of cancellation of G.R. dated 26.02.2013. The G.Rs. states –

शासन निर्णय क्र.अकंपा-१०१३/प्र.क्र.८/आठ, दि.२६.०२.२०१३ रद्द झाल्याने त्याअनुषंगाने तसेच उपरोक्त संदर्भ क्र.१, २ व ३ अन्वये विहित केलेल्या अनुकंपा तत्वावरील नियुक्तीसाठी दिवंगत शासकीय कर्मचा-यांच्या पात्र नातेवाईकांच्या यादीमध्ये सुधारणा

करण्यात येत असून खालील नमूद केलेले नातेवाईक हे अनुकंपा नियुक्तीसाठी पात्र राहतील व त्यापैकी एका पात्र नातेवाईकास नियुक्ती अनुज्ञेय राहिल.

It includes, among others, the following relatives of the deceased who are eligible to apply for appointment on compassionate ground.

२) मुलगा/मुलगी (अविवाहीत /विवाहीत), मृत्यूपूर्वी कायदेशिररित्या दत्तक घेतलेला मुलगा/मुलगी (अविवाहीत /विवाहीत)

In view of aforequoted portions of G.R. dated 17.11.2016, the second ground of rejection cannot be sustained. It may be reiterated that this ground of rejection was founded on the guidelines contained in G.R. dated 26.02.2013 which has been effectively cancelled and substituted by G.R. dated 17.11.2016.

7. The third ground of rejection is as follows-

महाराष्ट्र शासन निर्णय क्रमांक अकंपा १०९३/२३३५/प्र.क्र.१०१९३/आठ दिनांक २६/१०/१९९४ तसेच शासन निर्णय अकंपा १२१७/प्र.क्र./१०२/आठ दिनांक २१/९/२०१७ अन्वये परिशिष्ट पाच मधील कुटुंबाची हलाखीची परिस्थिती नुसार आपला मोठा भाऊ दिलीप वांदिले हे आपले वडीलांचे मृत्यूपूर्वी पासुनच सन २००३ पासुन वर्धा जिल्हा पोलीस दलामध्ये शासकीय नौकरीवर असुन आपली आई श्रीमती वनिता वांदिले यांना रमेश वांदिले यांचे मृत्यूनंतरचे सर्व लाभ देण्यात आले असुन सद्या स्थितीत १९,७५०/- इतके कुटुंबनिवृत्ती वेतन मिळत असल्याचे आपली आई वनिता वांदिले यांनी बयानाद्वारे लेखी कळविले आहे.

So far as this ground is concerned, it is the contention of the applicant that it is not sustainable in view of the following portion incorporated in G.R. dated 21.09.2017-

(५) कुटुंबाची हलाखीची परिस्थिती

(अ) अनुकंपा तत्वावर नियुक्तीकरिता मासिक उत्पन्नाची तसेच ठोक रकमेची मर्यादा यापुढे राहणार नाही. (शासन निर्णय, दि. २६.१०.१९९४)

Aforequoted portion shall suffice to hold that this ground of rejection is also not sustainable.

8. The fourth ground of rejection is as follows-

आपण आपले दिनांक ०३/०२/२०१७ रोजीचे अर्जासोबत दिनांक २४/१/२०१७ रोजीचे रु.१००/- चे स्टॅम्प पेपरवर आपण गृहीणी असुन कोणत्याही प्रकारच्या खाजगी अथवा शासकीय नौकरीत नाही व कोणत्याही प्रकारचे उत्पन्नाचे स्रोत नाही. याबाबत शपथपत्राद्वारे या कार्यालयाला कळविले आहे. परंतु सदरचे शपथपत्र सादर करावयाचे पहिले म्हणजे आपले वडीलांचे निधनानंतर दोन महिन्यांनी दिनांक १/६/२०१२ रोजी आपले लग्न श्री विलास लोहकरे यांचेशी झाले असुन लग्नानंतर आपण आपले पती विलास लोहकरे यांचेवर सर्वस्वी अवलंबून असुन आपले पती हे लग्नापूर्वी पासुनच सन २००३ पासुन वर्धा जिल्हा पोलीस दलामध्ये शासकीय नौकरीवर असल्याने आपल्याला उत्पन्नाचे आर्थिक स्रोत उपलब्ध आहे.

I have referred to G.R. dated 17.11.2016. It lays down *inter alia* that married daughter of the deceased would also be eligible to apply for appointment on compassionate ground. I have also referred to G.R. dated 21.09.2017 which states-

(५) कुटुंबाची हलाखीची परिस्थिती

(अ) अनुकंपा तत्वावर नियुक्तीकरिता मासिक उत्पन्नाची तसेच ठोक रकमेची मर्यादा यापुढे राहणार नाही. (शासन निर्णय, दि. २६.१०.१९९४)

These two stipulations lead to the conclusion that the fourth ground of rejection also lacks substance. Thus, none of the grounds on which the impugned order of rejection is founded can be said to be sustainable.

9. The applicant has relied on “***Nikhil Maruti Gosarade Vs District Collector, Sangli and Others [2022 (1) Mh.L.J.] Page 348***”

In this case it is held-

In cases of compassionate appointment, not only the authorities but also the tribunal is required to be more careful, sensitive and live to the human considerations and adopt a cautious approach before denying benefit under the compassionate appointment provisions.

10. The applicant has further relied on “***Nitin s/o Yohan Arawade Vs. Central Bank of India, Mumbai [2022(2) Mh.L.J] page 269***”.

wherein it is observed-

It is unheard of that the compassionate appointment could be refused to an eligible member of the family which has lost a sole bread-earner, if the family was not indigent.

11. The applicant has also relied on “***Yogita w/o Shivsing Nikam Vs State of Maharashtra and Others [2022(2) Mh.L.J. page 370***”.

In this case it was found that the Education Officers had denied approval to compassionate appointments. The reason for not according approval was most inappropriate interpretation put by

them on the relevant Government Resolutions despite crystallised position of law. Heavy costs were imposed on the concerned Education Officers and it was directed that the same be recovered from their salaries.

12. Considering facts of the case, above referred G.Rs. and guidelines contained in the rulings relied upon by the applicant, I have come to the conclusion that the impugned order has to be quashed and set aside. Hence, the order.

ORDER

Application is allowed in the following terms-

The impugned order (Annexure A-18) is quashed and set aside since none of the grounds on which it is founded can be sustained.

The respondent department shall consider application dated 03.02.2017 (Annexure A-5) submitted by the applicant in the light of observations made in this judgment, and decide the same **within six weeks** from the date of this order. No order as to costs.

(M.A.Lovekar)
Member (J)

Dated – 06/07/2022

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 : 06/07/2022.
and pronounced on
Uploaded on : 06/07/2022.