

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL****NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO. 899/2022(S.B.)**

Mr.Amit S/o Sham @ Shyamsundar Ghodekar,  
Aged about 30 years, Occ. : Nil,  
R/o. Anji (Mothi), Tah. & Dist. Wardha,  
Wardha (M.S.)

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
Through its Principal Secretary,  
Public Works Department,  
Mantralaya Mumbai-32.
- 2) Superintending Engineer,  
Public Work Circle,  
Amravati.
- 3) Executive Engineer,  
Special Project Public Works Department,  
Daryapur Dist.Amravati.

**Respondents**

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Shri S.C.Deshmukh, Ld. Counsel for the applicant.

Shri A.P.Potnis, Ld. P.O. for the respondents.

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

**Dated: - 04<sup>th</sup> May 2023.**

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**JUDGMENT**

**Judgment is reserved on 02<sup>nd</sup> May, 2023.**

**Judgment is pronounced on 4<sup>th</sup> May, 2023.**

Heard Shri S.C.Deshmukh, learned counsel for the applicant and Shri A.P.Potnis, learned P.O. for the respondents.

2. Case of the applicant is as follows.

Father of the applicant who was working as Store Keeper on the establishment of respondent no.3 died in harness on 20.04.2007. Mother of the applicant made an application dated 01.03.2008 (Annexure A-1) that her son be given an appointment on compassionate ground. Respondent no.3, by communication dated 15.05.2008 (Annexure A-2) informed mother of the applicant that the applicant being a minor was not eligible for such appointment. Thereafter, mother of the applicant applied for appointment on compassionate ground but said application was rejected by order dated 29.05.2008 (Annexure A-3) on the ground that she had crossed the upper age limit of 40 years. On 04.07.2012, after attaining majority, the applicant applied for giving him an appointment on compassionate ground but said application was rejected by order dated 01.08.2012 (Annexure A-4) on the ground of delay in making the same. Respondent no.1, too, by order dated 21.12.2018, rejected the prayer by observing that the applicant ought to have submitted the application within one year from the date of attaining majority. Order dated 21.12.2018 (Annexure A-6)

cannot be sustained in view of the fact that mother of the applicant had applied within time to give appointment to her son, the applicant. G.R. dated 20.05.2015 (Annexure A-8) gives power to the Government to condone the delay upto two years. Judgment dated 23.01.2020 (Annexure A-7) in O.A.No.863/2017, and Judgment dated 27.08.2020 (Annexure A-9) in O.A.No.79/2021 support stand of the applicant. Hence, by quashing the order dated 21.12.2018 (Annexure A-6) direction be issued to the respondents to consider name of the applicant for appointment on compassionate ground.

3. Stand of respondent no.3 is as follows. When mother of the applicant applied for considering the applicant for appointment on compassionate ground, the latter was minor. When mother of the applicant herself applied thereafter, for appointment on compassionate ground she had crossed the upper age limit of 40 years. The applicant submitted application for appointment on compassionate ground beyond the period of one year from attaining majority as stipulated in G.R. of G.A.D. dated 11.09.1996. The applicant attained majority on 01.02.2010. Thus, none of the above referred orders can be faulted.

4. The applicant has relied on the Judgment of the Hon'ble Bombay High Court dated 12.12.2018 in Writ Petition No.8771/2015 (**Shri Dhulaji**

*Shrimant Kharat Vs. State of Maharashtra and 4 others*) and the Judgment dated 23.01.2020 delivered by the Principal Bench of this Tribunal in O.A.No.863/2017. In the latter Judgment this Tribunal relied on the Judgment in Dhulaji's Case (Supra) and held-

*In Dhulaji's case referred to above, the Government servant died in harness in 2008 and at that time Petitioner - Shri Dhulaji Kharat was minor. His mother made application for appointment of Shri Dhulaji Kharat on compassionate ground. However, it was not considered. Then again Shri Dhulaji Kharat made an application in 2013 to consider the application made by his mother in 2008. The Government, however, declined to consider the request on the ground that the Petitioner - Shri Dhulaji Kharat had not filed the application within one year from the date of attaining majority. In this context, however, Hon'ble High Court held that the request for appointment of Shri Dhulaji Kharat was already made by his mother within one year from the death of deceased and therefore, that application ought to have been considered for giving appointment to him on compassionate ground and the contention of the Government on the point of limitation was rejected. Accordingly, directions were issued to consider the application made by mother in 2008 for appointment on compassionate ground. This decision of Hon'ble High Court is squarely attracted to the present situation.*

***14. It would be highly unjust and unfair rather arbitrary to reject the claim for appointment on compassionate ground on such technical grounds. Firstly, the claim made by Applicant No.2 (Shri Abhijeet Vishwas Bhosale) during his minority ought to have been considered on attaining his majority or to provide the employment to his mother during the period when her name was valid in waiting list, on priority basis in view of judgment of Hon'ble Supreme Court in Sushma Gosain's case. But no steps were taken to provide employment to her. If such course of action is countenanced it would be amounting to give benefits of lethargy and inaction to the Respondents, and would frustrate very object of scheme.***

Aforequoted observations squarely apply to the facts of the case which are narrated above and about which there is no dispute. Hence, the order.

#### **ORDER**

- 1) The O.A. is allowed.
- 2) The impugned order dated 21.12.2018 (Annexure A-6) is quashed and set aside.
- 3) The respondents are directed to consider the application dated 01.03.2008 (Annexure A-1) for the purpose of giving appointment to the applicant on compassionate ground and

his name shall be included in the waiting list prepared for the purpose subject to his fulfilling other eligibility criteria in accordance with Rules. This exercise shall be completed within three months from today.

4) No order as to costs.

(M.A.Lovekar)  
Member (J)

Dated – 04/05/2023  
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 : 04/05/2023.

and pronounced on