

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 95/2019 (D.B.)

Smt. Sangita Arun Lanjewar,
Aged about 47 years,
Occupation:-Service,
C/o Vishwanath Sahadeo Uparikar,
Rajapeth, Taper Hostel, Amravati,
Tahsil and District Amravati

Applicants.

Versus

- 1) State of Maharashtra,
through its Secretary, Home Department,
Mantralaya, Mumbai-32.
- 2) The District Superintendent of Police,
Wardha, District Wardha.

Respondents.

Shri V.T.Bhoskar, Id. Advocate for the applicants.
Shri A.P.Potnis, Id. P.O. for respondents.

**Coram :- Shri Shree Bhagwan, Vice-Chairman and
Shri M.A.Lovekar, Member (J).**

Dated :- 20/12/2021.

JUDGMENT

Per : Member (J).

Heard Shri V.T.Bhoskar, the Id. Counsel for the applicant and
Shri A.P.Potnis, the Id. P.O. for the Respondents.

2. The applicant has impugned order dated 01.02.2019 issued by respondent no. 2 cancelling her reappointment on the post of Junior Clerk-Typist and appointing her on a Group-D post on account of her

failure to submit prescribed typing certificates in stipulated period of two years from the date of appointment (A-1 at Pg. Nos. 9 to 11).

3. Undisputed facts are as follows:-

Husband of the applicant died in harness. The applicant was appointed on compassionate ground as Junior Clerk-Typist by respondent no. 2 by order dated 29.04.2015 (A-2, Pg. No. 12). By letter dated 31.01.2017 (A-3, Pg. No. 13) respondent no. 2 intimated the applicant that in case she failed to submit certificate of passing prescribed typing tests within the period of two years from the date of her appointment, her appointment was liable to be cancelled as per relevant G.Rs. Respondent no. 2, by order dated 11.04.2018 (A-4 at pg. no. 14) cancelled appointment of the applicant with effect from the said date owing to her failure to submit prescribed typing certificates within the stipulated period of two years. Concluding portion of A-4 is as under-

"I nj dfu" B Jskh fyi hdkauh 02 o" kI I ok i qkz > kY; kpsfnukadki kl u I njggvkn'sk fuxIer dY; kpsfnukadk lk; Dr 'kkl dh; I ok dsh vI Y; kusR; kpsdMu I nj dkyko/khpsoru ol gy dj.; kr ; skkj ukgh- R; kauh mi jkDr ejkBh o baxzh VadyS[kkukpsfofgr osxe; khph i fj {kk mRrh.kz dY; kps i æk.ki = I knj dY; kuarj fnukad 11-04-2018 ps ek urj i kl u I or i qLFkki hr dj.; kr ; skk&jk fnukad lk; DrP; k vuq LFthr dkyko/khps dkskrgh osufo" k; d ykHk u nrk I ok I krR; kl g R; kulk fyi hd&VadyS[kd i nkoj i qLFkki hr dj.; kr ; bly-"

On 14.12.2018 the applicant submitted prescribed Typing Certificates in the office of respondent no. 2. Consequent upon this, respondent no. 2, by order dated 19.12.2018 (A-5, Pg. No. 16) reinstated her with continuity of service. By order dated 24.12.2018 passed by respondent no. 2 (A-6 at Pg. No. 18) the applicant was directed to take charge. This was, however, soon followed by the impugned order cancelling her appointment on the post of Junior Clerk-Typist and appointing her, instead on Class-IV post of 'Safai-kamgar'.

4. On the basis of aforesaid facts which have been set out in this application, the applicant has raised following contentions:-

(A) Cancellation of appointment on Class-III post and direction to join on Class-IV post was contrary to spirit and proper interpretation of G.R. dated 21.09.2017 (at pg. nos. 38 to 60).

(B) On 31.01.2017, the respondent department for the first time issued communication to the applicant and intimated that she had to submit prescribed Typing Certificates within a period of two years from the date of her appointment and hence this certificate should be submitted immediately. By making this communication, after a lapse of more than 1½ years from the date of appointment of the applicant, the respondent department failed to comply with clause 7 of G.R. dated 21.09.2017. Said clause reads:-

(9) 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 नमून्यात भरणे इ. माहिती) शासकीय कर्मचा-यांच्या 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.५.२.२०१०)
- (ब) दिवंगत शासकीय कर्मचा-याचा पात्र वारसदार सज्जान नसेल तर तो सज्जान झाल्यानंतर एक वर्षाच्या आत अनुकंपा तत्वावर नियुक्तीसाठी अर्ज करू शकेल मात्र तो सज्जान झाल्यावर त्याने असा अर्ज करणे अपेक्षित आहे हे देखील कुटुंबनिवृत्तीवेतन धारकाला कुटुंब निवृत्तीवेतनविषयक कागदपत्रांची पूर्तता करतेवेळी लेखी कळविणे संबंधित आस्थापना अधिका-यावर बंधनकारक राहिल. (शासन निर्णय, दि. २०.०५.२०१५)

Aforequoted Clause 7 reveals that it was mandatory on the part of the respondent department to intimate all the details in respect of the scheme relating to appointment on compassionate ground to the family members of the deceased. The details to be so provided by the department included details regarding submission of Typing Certificate within the stipulated period. This was not done by the respondent department.

(C) Clause 13 of G.R. dated 21.09.2017 provides that those employees who have not submitted Typing Certificates within the period of two years from the date of appointment, their appointment was liable to be terminated. Said Clause further provides for reinstatement of such employees on submission of requisite Typing Certificates, though with no service benefits for the intervening period of absence. By relying on

this mandate contained in Clause 13 of G.R. dated 21.09.2017 the applicant was rightly reinstated by order dated 19.12.2018 (A-5) on submission of Typing Certificates by her.

(D) The respondent department committed an error by relying on Clause 14 of the G.R. dated 21.09.2017, while passing the impugned order. Clause 14 applies to those employees who have not passed the Typing tests as a result of which they are given appointment on Group-D post.

Reading of Clause-13 & 14 of G.R. dated 21.09.2017 shall make the position clear. These Clauses are as under:-

(१३) गट-क मधील लिपीक-टंकलेखक पदावर अनुकंपा नियुक्तीसाठी टंकलेखन प्रमाणपत्र सादर करण्यास मुदत:-

(अ) अनुकंपा तत्वावर लिपीक-टंकलेखक पदावर नियुक्त झालेल्या उमेदवारांना विहित वेगमर्यादेचे टंकलेखन अर्हता प्रमाणपत्र सादर करण्यासाठी शासन निर्णय, दि. ०६.१२.२०१० अन्वये ६ महिने असलेली मुदत वाढवून ती २ वर्षे इतकी करण्यात येत आहे.

अनुकंपा तत्वावर लिपीक-टंकलेखक पदावर नियुक्ती दिलेल्या व शासन निर्णयाच्या दिनांकापर्यंत नियुक्तीपासून २ वर्षे पूर्ण न झालेल्या उमेदवारांनाही सदर प्रमाणपत्र सादर करण्यासाठी उमेदवारांच्या नियुक्तीपासून २ वर्षे इतकी मुदत देण्यात येत आहे.

६ महिन्याच्या कालावधित सदर प्रमाणपत्र सादर न केल्याने ज्या उमेदवारांच्या लिपीक-टंकलेखक पदावरील सेवा समाप्त करण्यात आल्या आहेत त्यांनाही लिपीक-टंकलेखक पदावरील नियुक्तीच्या दिनांकापासून २ वर्षात सदर प्रमाणपत्र सादर करण्याची मुभा द्यावी. अशा उमेदवारांनी सदर प्रमाणपत्र सादर केल्यानंतर लिपीक-टंकलेखक पदावरील अनुपस्थित कालावधिचे कोणतेही वेतनविषयक लाभ न देता सेवा सातत्यासह लिपीक-टंकलेखक पदावर पुनःस्थापित करण्यात यावे. (शासन निर्णय, दि. २०.०५.२०१५)

(आ) कोणत्याही कारणास्तव दोन वर्षापेक्षा अधिक मुदतवाढ अनुज्ञेय असणार नाही. हा कालावधी संपताच नियुक्ती संपुष्टात आणावी. (शासन निर्णय, दि. २३/०८/१९९६)

(१४) अनुकंपा तत्वावर गट-क मधील लिपीक-टंकलेखक पदावर नियुक्ती मिळाल्यानंतर विहित मुदतीत टंकलेखन प्रमाणपत्र सादर न केल्यास अनुसरावयाची कार्यपध्दती:-

अनुकंपा तत्वावर गट-क मधील लिपीक-टंकलेखक पदावर नियुक्ती मिळाल्यानंतर टंकलेखनाची विहित वेगमर्यादेची परीक्षा पास होऊ शकले नाहीत म्हणून त्यांच्या सेवा संपुष्टात आणल्या आहेत, अशा उमेदवारांचा गट-ड मधील नियुक्तीसाठी पदांची उपलब्धता विचारात घेऊन नव्याने नियुक्ती देण्याबाबत विचार करण्यात यावा. मात्र अशा रीतीने गट-ड मधील पदावर नियुक्ती स्विकारल्यानंतर कुठल्याही परिस्थितीत गट-क मधील पदासाठी त्याचा विचार करता येणार नाही, ही बाब त्यांना नियुक्तीपूर्वी स्पष्ट करावी.

(शासन निर्णय, दि. ०८.०९.१९९७)

5. Reply of respondent no. 2 is at pg. nos. 19 to 25. According to the respondent department the impugned order was passed strictly in accordance with what is stipulated in G.R. dated 21.09.2017.

6. The Id. counsel for the applicant and Id. P.O. advanced submissions as per their respective cases/ contentions.

7. We have adverted to the undisputed facts. We have also quoted relevant clauses viz 7, 13 & 14 of G.R. dated 21.09.2017. The respondents have not placed any document on record to show that they had discharged the responsibility cast on them by aforesaid clause 7. The said clause mandates that necessary information, including the time

frame to submit Typing Certificates, shall be furnished to eligible dependent/s of the deceased immediately. For this lapse of the respondent department the applicant cannot be made to suffer. Having regard to facts of the cases in hand either Clause 13 or Clause 14 of G.R. dated 21.09.2017 cannot be read in isolation. These Clauses will have to be read with Clause 7. Conjoint consideration of these three clauses would unmistakably lead to the conclusion that order dated 19.12.2018 (A-5) reinstating the applicant with continuity of service (but without extending benefit of salary for the period of her absence) was passed on proper reading of G.R. dated 21.09.2017, and the same ought not to have been reversed by passing the impugned order.

8. For all these reasons the O.A. shall succeed. Hence, the order:-

ORDER

- A. The O.A. is allowed.
- B. The impugned order (A-1) is quashed and set aside. The applicant shall be reinstated on the post of Junior Clerk-Typist within two weeks from the date of this order with continuity of service. However, she will not be entitled to salary and allowances for the period from 01.02.2019 till the date of her reinstatement pursuant to this order.

C. No order as to costs.

(M.A.Lovekar)
Member(J).

(Shree Bhagwan)
Vice-Chairman.

Dated :- 20/12/2021.

*aps.

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

Name of Steno : A.P.Srivastava

Court Name : Court of Hon'ble V.C. and Member (J).

Judgment signed on : 20/12/2021.

Uploaded on : 21/12/2021.