

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI

ORIGINAL APPLICATION NO.986 OF 2017  
(Subject : Appointment on Class IV post)

DISTRICT: PUNE

Sandeep Bapu Pol )  
Seeking Class IV appointment )  
on the establishment of res. No.2. )

Residing at : Survey no.31/1, )  
Borate Vasti, )  
Kharadi, Pune 411 014 )

**.. Applicant**

**Versus**

1. The Director, )  
Health Services, Maharashtra State, )  
Aarogya Bhavan, St. Georges Hospital Compound, )  
P. D'Mello Road, Mumbai 400 001. )

2. The Deputy Director, )  
Health Services, Pune Circle, )  
New Administrative Building, )  
Opp. Vidhan Bhavan, )  
Pune 411 001. )

3. The Civil Surgeon, )  
District Hospital, )  
Aundh, Pune. )

**..Respondents**

Ms. S. Suryawanshi, the learned Presenting Officer for the Respondents.

CORAM : Justice Shri A.H. Joshi, Chairman  
Shri P.N. Dixit, Member(A)

DATE : 12.03.2018.

PER : Justice Shri A.H. Joshi, Chairman

## J U D G M E N T

1. Heard Ms. S. Suryawanshi, the learned Presenting Officer for the Respondents.
2. None appeared for the Applicant because learned Advocate for the Applicant has changed the side to the Treasury.
3. The case proceeds in the following admitted background :-
  - (a) Applicant's mother Smt. Radha Bapu Bagade / Pol was serving as female sweeper at Central Mental Hospital, Yerwada, Pune. She died on 25.07.2008.
  - (b) Applicant applied for appointment on compassionate basis but failed to secure appointment.
  - (c) Applicant and his mother did not belong to salvage / bhangi community, but belonged to Schedule Caste, Mahar.
  - (d) The Government's decision passed on Lad-Page Committee of appointing legal heir of dependent of the salvage staff did not cover employees belonging to other schedule caste, though working for same job.
  - (e) Government of Maharashtra by policy decision dated 10.11.2015 applied concession and right of appointment made available on the basis of Lad Page Committee, to the dependent members of schedule caste employees as laid down in said Government decision.
  - (f) Since Applicant become eligible for appointment, after Government decision dated 10.11.2015, applicant applied, however his application has been rejected on the ground that claim of the applicant / application was belatedly raised/ delayed.
4. We have considered the affidavit-in-reply of the State. Applicant's claim in present application is opposed on the ground of delay in submitting application for appointment.
5. With the help of the learned P.O. for the Respondents, we have minutely examined the claim and opposition. We have also minutely perused the policy decision of the Government to extend the benefit of Lad-Page Committee recommendations through G.R. dated 10.11.2015.

6. It is evident that Government is keen and serious on implementation of the said policy.

7. Scrutiny of the Government Resolution reveals that the G.R. dated 10.11.2015 is silent as to the manner in which the claims for appointment by the legal heir of the cleaning workers who had died before issuance of Government Resolution be dealt with.

8. Considering that the Government decision dated 10.11.2015 which is the decision liable to be categorized and titled as Scheme of "Labour Welfare" and of "Social Security Measures", for socially and economically deprived class, the Government scheme requires to be enforced and implemented by applying rule of harmonious interpretation as beneficial construction.

9. We, therefore, find that the rejection impugned is not in conformity with the true spirit of the scheme. The scheme nowhere lays down or prescribes the prohibition and exclusion of the benefit to dependants of deceased employee who died prior to the declaration of Government decision dated 10.11.2015.

10. Denial of a concession and right which has been created in favour of an under privileged class, is per se unfair and unjust. Exclusion of a beneficial scheme cannot and ought not be read as an implied provision of exclusion. The very object and purpose of the scheme shall get defeated if denial impugned is held. Heir of a predeceased employee cannot be expected to apply before commencement of the scheme. The limitation or period fixed for application has to be second from the date of commencement of the scheme i.e. from 10.11.2015.

11. Hence, the exit when the scheme does not carve out such exclusion in expressed and unambiguous words, denial on the ground of limitation is denial due to irrelevant ground and the aspect of delay has no application in present case.

12. We, therefore, quash and set aside the impugned communication dated 10.02.2016 wrongly typed as 10.02.2015, copy whereof is at page 38, Exhibit A-10 of the paper book of O.A. with further directions to appoint the applicant on the Class IV post by implementation of the scheme of appointing candidates furtherance to Government Resolutions dated 21.10.2011, 26.02.2014 and 10.11.2015, copy whereof are at page 21 Annexure A-4, page 24 Annexure A-5 and page 30 Annexure A-9 respectively and No Objection certificate dated 02.07.2015, page 26 Annexure A-6 of the paper book of O.A..

13. In these circumstances, parties are directed to bear their own costs.

Sd/-

**(P.N. Dixit)**  
**Member(A)**

Sd/-

**(A.H. Joshi J.)**  
**Chairman**

prk