

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL**

**MUMBAI**

**ORIGINAL APPLICATION NO.293 OF 2017**

**DISTRICT : MUMBAI**

Shri Siddhesh Mangesh Sawant, )  
Age 21 years, occ. Nil, R/o 50/6 Worli Police Camp, )  
Worli, Mumbai 400030 )..Applicant

Versus

1. The State of Maharashtra, )  
Through Principal Secretary, )  
Home Department, Mantralaya, Mumbai-32 )
2. The Commissioner of Police, )  
L.T. Marg, Opp. Crawford Market, Fort, Mumbai )
3. The State of Maharashtra, )  
Through Principal Secretary, )  
General Administration Department, )  
Mantralaya, Mumbai 400032 )..Respondents

Shri B.A. Bandiwadekar – Advocate for the Applicant

Smt. Archana B.K. – Presenting Officer for the Respondents

CORAM : Shri P.N. Dixit, Vice-Chairman (A)

DATE : 27<sup>th</sup> September, 2019

**J U D G M E N T**

1. Heard Shri B.A. Bandiwadekar, learned Advocate for the Applicant and Smt. Archana B.K., learned Presenting Officer for the Respondents.

2. The applicant is son of the deceased government servant who died on 24.1.2013. The deceased had twins born on 4.11.1995. He had third child born on 28.4.2002. Applicant requested respondent no.2 to consider him for compassionate appointment. His representation was rejected by the impugned order dated 17.9.2014 (page 24 of OA) stating that the third child born after 31.12.2001 would not entitle him for compassionate appointment as per GR dated 28.3.2001 issued by the GAD. The impugned order is based on communication dated 19.8.2014 from respondent no.1 to respondent no.2 (Exh. A page 23 of OA). The said GR is enclosed at Exhibit B page 25A which reads as under:

“ [ इ ] दिनांक ३१ डिसेंबर, २००१ नंतर तिसरे अपत्य झालेल्या कर्मचा-यांच्या कुटुंबियास अनुकपा तत्वावरील नियुक्तीसाठी पात्र समजले जाणार नाही.”

(Quoted from page 25A of OA)

3. Under the RTI the applicant has furnished information obtained from the office of respondent no.2. The same reads as under:

अ. क्र	आवश्यक माहिती	पुरविण्यात आलेली माहिती
०१	सामान्य प्रशासन विभाग यांचा ..... मिळावी	शासन निर्णय क्र.अंकपा १०००/प्र.क्र.२०/२०००, दि. २८/०३/२००१ व दि. १३/०६/२००३ चा शासन निर्णय समाविष्ट असलेले परिपत्रकामध्ये पो.प.क्र.४८७/भाग-३, दि. २४/११/२००३ मध्ये प्रसिद्ध करण्यात आले आहे

(Quoted from Exhibit J page 49A of OA)

4. The Exhibit states that the GR of 2001 referred above from Exhibit B was published in the police gazette on 24.11.2003.
5. The applicant has therefore prayed that the impugned order may be stayed and the applicant may be given benefit of the same.
6. The respondent no.2 has filed affidavits and sur-rejoinder. Relevant portion reads as under:

*“2. With reference to contents of amended paragraph no.6.40, I say as follows: The contents raised therein are denied. It is respectfully submitted that as a Government employee, it is duty of employee to be aware about rules and regulations, terms and conditions of the civil services, and orders of government issued from time to time in this regard. It is well settled that ignorance of rules/law is excuse to escape from legal action. It is respectfully submitted that Government has declared the policy of small family and consequent to that Finance Department has issued GR No.Mis.1000/C.N.70/Service-5 on 11 August 2000. As per the said GR it is made clear that employee having small family of wife/husband and two living children will get admissible concession of home town travelling/LTC. The said GR come to effects from 1<sup>st</sup> September, 2000. I say that employees while availing the said facilities come to know about the policy decision regarding small family. Therefore the contention of the applicant that his deceased father not aware of the small family policy of the government is without any foundation.*

*5. With reference to contents of amended paragraph no.6.43, I say as follows: It is submitted that publication of police notice circular is a departmental publication for Mumbai Police Department only. It is respectfully submitted that Government has declared the policy of small family and consequent to that Finance Department has issued GR No. Mis.1000/C.N.70/Service-5 on 11 August 2000. As per the said GR it is made clear that employee having small family of wife/husband and two*

*living children will get admissible concession of home town travelling/LTC. The said GR come to effects from 1<sup>st</sup> September, 2000. I say that employees while availing the said facilities come to know about the policy decision regarding small family. Therefore the contention of the applicant that his deceased father not aware of the small family policy of the government is without any foundation.”*

(Quoted from page 62 of OA)

7. I have examined the relevant provisions of the GR as well as police gazette brought on record publishing the GR. I have also gone through the impugned order. The only reason mentioned is as the third child of the deceased government servant was born after the stipulated date of 2001, it has made him not eligible for consideration for compassionate appointment. As admitted by respondent no.2 in the reply given to the RTI the said GR was published much thereafter viz. 24.11.2003.

8. Though the government servant is expected to be aware of the orders issued by the Government from time to time, in the peculiar circumstances where there was a twin born earlier and the third child is born just immediately after the stipulated date, it would be in the interest of justice not to deny him consideration for compassionate appointment. The compassionate appointment is basically to meet the economic hardship of the Government servant who has expired.

9. In view of the above, I pass the following order.

### **ORDER**

1. OA is allowed and the impugned order is quashed and set aside.

2. The application of the applicant should be forwarded by respondent no.2 to respondent no.1 within a period fifteen days.
3. Respondent No.1 is directed to take a decision on the application within a period of two months after receipt of proposal from respondent no.1.
4. With these directions OA is disposed off. No order as to costs.

**(P.N. Dixit)**  
**Vice-Chairman (A)**  
**27.9.2019**

Dictation taken by: S.G. Jawalkar.

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