

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL**

**MUMBAI**

**ORIGINAL APPLICATION NO.390 OF 2022**

**DISTRICT : MUMBAI**

1. Shri Mayur Khemchand Waghela, )  
Age 31 years, Flat No.19, RMO Quarters, )  
Sir J.J. Hospital, Mumbai )
2. Shri Khemchand A. Waghela, )  
Age 57 years, Flat No.19, RMO Quarters, )  
Sir J.J. Hospital, Mumbai )..Applicants

Versus

1. The State of Maharashtra, )  
Through its Principal Secretary, )  
Medical Education & Drugs Department, )  
New Administrative Building, 9<sup>th</sup> Floor, )  
Mantralaya, Mumbai 400032 )
2. Director/Secretary, )  
Medical Education & Research, )  
Sir J.J. Group of Hospitals, Byculla, Mumbai-8 )
3. Grant Government College and Sir J.J. Group )  
of Hospitals, through its Dean, Byculla, Mumbai )
4. Administrative Officer, )  
Sir J.J. Group of Hospitals, Mumbai-8 )

5. Smt. Manali Dinesh Chauhan, )  
Age 27 years, R/at E-Block, Room No.3, )  
Sir J.J. Hospital Compound, Byculla, Mumbai-8 )..Respondents

Shri N.N. Dixit – Advocate for the Applicants

Shri A.J. Chougule – Presenting Officer for Respondents No.1 to 4

Shri U.V. Bhosle – Advocate for Respondent No.5

CORAM : Smt. Medha Gadgil, Member (A)

RESERVED ON : 3<sup>rd</sup> October, 2023

PRONOUNCED ON: 12<sup>th</sup> October, 2023

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

1. Heard Shri N.N. Dixit, learned Advocate for the Applicants, Shri A.J. Chougule, learned Presenting Officer for Respondents No.1 to 4 and Shri U.V. Bhosle, learned Advocate for Respondent No.5.

2. The applicant no.1 has challenged communications dated 30.3.2021 and 21.5.2021 whereby his claim for compassionate appointment is rejected and he is seeking appointment in terms of recommendations of the Lad Page Committee contending that he is the nephew of deceased Shri Naresh Atmaram Waghela. The applicant no.2 is the brother of the deceased Government servant.

3. In this case the applicant no.1 has challenged impugned orders dated 30.3.2021 and 21.5.2021 by which his claim for compassionate appointment has been rejected on the ground that in the service book the deceased Shri Naresh Atmaram Waghela had declared his niece Smt. Manali Dinesh Chauhan as his nominee.

4. Shri N.N. Dixit, Ld. Advocate for the applicants pointed out that deceased Shri Naresh A. Waghela, who was working as a Sweeper with respondent no.3 died on 16.1.2021. The applicant no.1 applied to respondent no.3 for appointment on compassionate ground in the Sir J.J. Group of Hospitals as the applicant's Uncle Shri Naresh A. Waghela had died during discharge of his duties. He pointed out that the authorities had failed to appreciate that Smt. Manali Dinesh Chauhan, who has been nominated as the heir by her Maternal Uncle, is married and that applicant is the only heir and legal representative of the deceased. The applicant had preferred an application dated 23.3.2021 for compassionate appointment which has been rejected by impugned order dated 30.3.2021 on the ground that deceased Shri Naresh A. Waghela has recorded his niece Smt. Manali Dinesh Chauhan as nominee in his service book but they had failed to appreciate that Smt. Manali Dinesh Chauhan was married and hence not part of the family of the deceased. He, therefore, prays that communication dated 30.3.2021 may be quashed and set aside and respondent no.1 may be directed to appoint applicant no.1 on compassionate ground on behalf of the deceased Shri Naresh A. Waghela.

5. Shri U.V. Bhosle, Ld. Advocate for Respondent No.5 stated that Smt. Manali Dinesh Chauhan is the niece of deceased Government servant, who was her Maternal Uncle. After the death of her uncle on 16.1.2021, respondent no.5 made an application for appointment on compassionate ground on 29.4.2021. In support of his contention, he pointed out that deceased Govt. servant was residing at Room No.3, E-Block, Sir J.J. Hospital Compound, Byculla, Mumbai and respondent no.5 and her mother were residing with deceased Govt. servant. In support of his contention he pointed out that Maternal Uncle Late Shri Naresh A. Waghela has nominated her as his heir as per the service book record. Ld. Advocate pointed out that respondent no.5 was married to Shri

Shrikant Ramugade on 20.7.2017 however divorced in November, 2019 and respondent no.5 along with his mother were staying with deceased govt. servant. He further pointed out that the Collector, Mumbai City had issued Heirship certificate dated 23.6.2021 to respondent no.5 and her mother viz. Smt. Manjula Dinesh Chauhan being his legal heirs. Ld. Advocate therefore submits that respondent no.5 is eligible for appointment on compassionate ground in place of her maternal uncle.

6. Ld. Advocate for respondent no.5 pointed out that respondent no.5 is eligible for appointment on compassionate ground in place of her late maternal uncle as per GR dated 10.11.2015. He also pointed out that respondent no.5 was residing with her deceased maternal uncle with her mother. He also states that in the Aadhar card of respondent no.5 and her mother the address is mentioned as E-Block, Room No.3, J.J. Hospital Compound, Byculla, Mumbai Central, Mumbai-8 which is the same as that of her deceased uncle. He pointed out that applicants have given their address as Flat No.19, RMO Quarters, Sir J.J. Hospital, Mumbai in the OA and their Aadhar Card is of Virar, Vasai, District Thane. He states that since both the addresses are different from the address of her maternal uncle, it is clear that applicants were not staying with her maternal uncle. Ld. Advocate further pointed out that just because she was married, she does not become ineligible for compassionate appointment nor does she cease to be family member of her maternal uncle late Shri Naresh Waghela. However, he had nominated as her heir and she was residing with him at the time of his death. She therefore prays that she should be appointed in place of her deceased maternal uncle Shri Naresh Atmaram Waghela.

7. Ld. PO relied on the affidavit dated 2.12.2022 filed by Yuvraj Mahadev Sonawane, Special Executive Officer in the office of Dean, Grant Medical College, Mumbai. He pointed out that late Shri Naresh Atmaram

Waghela was staying with his sister Smt. Manjula Dinesh Chauhan and the divorced daughter of his sister viz. Manali Dinesh Chauhan, whose name was mentioned by him as nominee in the service book after death of his mother. He pointed out that Mayur Khemchand Waghela could not prove that he was the heir of late Shri Naresh A. Waghela and his request applications dated 30.3.2021 and 21.5.2021 were refused. As the matter was in dispute, all financial benefits claimed by Manali Dinesh Chauhan have been temporarily withheld.

8. In this case it is clear that the matter revolves around the claim of nominee as per the Lad Page committee. It is useful to reproduce the relevant clauses of GR dated 10.11.2015, which reads as under:

“ड) वारसा पध्दतीने नोकरीसाठी पात्र असणारी व्यक्ती त्याच कुटुंबात राहात असणे आवश्यक आहे.

उ) सफाई कर्मचारी दिवंगत किंवा सेवानिकृत अगर विकलांग झाल्याच्या दिनांकापासून १ वर्षांच्या मुदतीत सफाई कर्माचा-याच्या पात्र कुटुंबियांकडून नामनिर्देशित केलेल्या वारसदार व्यक्तीने सक्षम प्राधिका-याकडे वारसाहक्काचे नियुक्ती मिळण्याकरिता अर्ज सादर करणे आवश्यक राहिल.”

9. It is clearly seen that respondent no.5 was living her deceased maternal uncle Shri Naresh Waghela as is seen from her Aadhar card. It is the same address as of the deceased. As per service book record it is seen that deceased Naresh Waghela has nominated Manali Dinesh Chauhan as his heir. Furthermore the Collector, Mumbai City has issued the Heirship certificate dated 23.6.2021 to her and her mother being his heirs. The applicant is unable to prove that he was fulfilling the conditions of GR dated 10.11.2015, as the address mentioned in the OA

and applicant's Aadhar Card is of Virar, Vasai, District Thane and not the same as his uncle late Shri Naresh Waghela.

10. The applicant is unable to prove his claim for compassionate appointment on behalf of deceased Shri Naresh Waghela.

11. In view of this the Original Application is dismissed. No order as to costs.

**Sd/-**  
**(Medha Gadgil)**  
**Member (A)**  
**12.10.2023**

Dictation taken by: S.G. Jawalkar.