

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI
ORIGINAL APPLICATION NO.693 OF 2017**

DISTRICT : PUNE

Shri Piyush Mohan Shinde,)
Age 25 years, occ. Nil, R/o Khadakwasala,)
PWD Colony, Singhgad Road, Pune)..Applicant

Versus

1. The State of Maharashtra,)
Through the Secretary, Irrigation Department,)
Mantralaya, Mumbai 400032)
2. The Superintending Engineer,)
Mechanical Circle (Right Canal), Warna Bhavan,)
Tarabai Park, Kolhapur-3)
3. The Executive Engineer,)
Chief Gate Erection, Unit No.3, Pune-37)..Respondents

Shri R.M. Kolge – Advocate for the Applicant

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

CORAM : Shri P.N. Dixit, Vice-Chairman (A)
RESERVED ON : 30th August, 2019
PRONOUNCED ON : 3rd September, 2019

J U D G M E N T

1. Heard Shri R.M. Kolge, learned Advocate for the Applicant and Smt. Archana B.K., learned Presenting Officer for the Respondents.

2. The father of the applicant died in harness. The name of his mother was included in the waiting list for compassionate appointment. As his mother attained the age of 45 years, her name was deleted as per the Government policy by respondent no.2 on 23.6.2008. Mother submitted an application to nominate the applicant on 18.1.2011. As the same was rejected the applicant preferred OA No.503 of 2015 in this Tribunal. Though the GR did not provide for substitution of the name once the mother's name has been deleted, looking at the economic conditions of the applicant this Tribunal directed the respondents to consider his appointment and allowed the substitution. This order was issued on 5.4.2016. The applicant approached respondent no.2 with the prayer that his name should be included on the same number where his mother's name existed in the waiting list. The same was rejected and his name was included from the date the judgment was delivered by this Tribunal. Aggrieved by the above impugned order issued on 21.3.2017 (Exhibit P page 82-83 of OA) the applicant has prayed to quash the same and has requested that respondents no.1 and 2 be directed to place his name in the waiting list as per the date of his application when he became major and not from the date of the judgment delivered by this Tribunal.

3. The respondents have contested the submissions made by the applicant. The submissions made by the respondents may be summarized as under:

(i) The mother of the applicant attained the age of 40 years in 2006 and as per the then Government policy her name was deleted on 23.4.2008. There was no approval for substituting the name of the applicant with other heir.

(ii) Even though there was no provision for substituting the name, there was no legal right available to the applicant for being considered in the waiting list. However, taking the sympathetic stand to mitigate the hardships faced by the applicant the Tribunal in the judgment in OA No.503 of 2015 dated 5.4.2016 directed the respondents to consider the name of the applicant in the waiting list. As a result the respondents included the name of the applicant from the date of judgment of the Tribunal.

4. I have perused the record furnished by the applicant as well as the respondents. The name of the applicant figures at Sr. No.151 in the old waiting list. The list has been updated after removing the names of first 72 persons. In the new list the name of the applicant figures at Sr. No.80. The persons above in the list have been included in the list for compassionate appointment following the death of their bread earner. As per the existing Government policy there is no provision to substitute the name of the heir when the name of the applicant is deleted on attaining prescribed age. In the present case name of the mother of the applicant was deleted in 2006 when she became 40 years old. The applicant has become major in 2013. The judgment given by this Tribunal in 2016 directs the respondents to include his name going beyond the GR. This has been done particularly taking sympathetic stand to mitigate his economic hardships. The contention made by the applicant to include his name in the waiting list from the date he became major is irrational and would amount to outright injustice against those who have been waiting for prolonged period to get appointment on compassionate grounds. There

is no legal right demonstrated by the applicant in support of his prayer. I do not find any merit in his prayer.

5. The Original Application is, therefore, dismissed. No order as to costs.

(P.N. Dixit)
Vice-Chairman (A)
3.9.2019

Dictation taken by: S.G. Jawalkar.

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