

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO.783 OF 2018
(Subject :- Compassionate Appointment)**

DISTRICT : DHULE

Sandeep s/o Subhash Thakur,)
Age: 30 years, Occu: Nil,)
R/o. Plot No.27-A, Behind Kalyani Bungalow,)
Raj Nagar, Devpur, Dhule.)...**Applicant**

V E R S U S

1. **The State of Maharashtra,**)
Through its Secretary,)
Home Department,)
Maharashtra State,)
Mantralaya, Mumbai -32.)
2. **The Director General of Police,**)
M.S., Mumbai.)
3. **The Superintendent of Police,**)
Nanded.)
4. **The Collector,**)
Nanded.) ...**Respondents.**

Shri A.S.Deshmukh, Advocate for the Applicant.

Smt. M.S.Patni, Presenting Officer for the Respondents.

CORAM : B. P. PATIL, ACTING CHAIRMAN

RESERVED ON : 26.08.2019.

PRONOUNCED ON : 25.09.2019.

ORDER

1. The Applicant has challenged the communication dated 26.04.2016 issued by the Respondent No.2 rejecting his application for appointment on compassionate ground on the ground that his father was serving on the Group-B post at the time of his death by filing the present Original Application.

2. Deceased Subhash Omkar Thakur was father of the applicant. Deceased Subhash Omkar Thakur entered in the service of the Government of Maharashtra in Home Department on 04-11-1983 as a Police Constable. Thereafter, he was designated as Police Naik. Thereafter he was promoted as Police Head Constable.

3. In December, 2017 i.e. on 18-12-2007, respondent no.2 promoted the deceased Subhash Thakur on the post of Police Sub Inspector (PSI) on purely temporary basis for the period of 364 days. Thereafter, he was continued on the said from time to time. Deceased Subhash Omkar Thakur died on 30-03-2013 in harness at the age of 52 years. After the death of his father, the applicant approached the respondent no.3 for getting appointment on compassionate ground by filing an application dated 30-07-2013. The respondent no.3 duly

processed the application and entered his name in the waiting list of the eligible candidates to be appointed on compassionate ground. Not only this but the respondent no.3 thereafter issued communication to him on 29-05-2014 and directed to remain present at the Police Headquarter, Nanded on 08-06-2014 for participating in the Police Recruitment process of the year 2014. Accordingly, the applicant had participated in the recruitment process but due to misfortune, he could not get appointment as his serial number in the waiting list had not reached and other candidates above him in the waitlist were appointed in the vacancies available.

4. It is his further contention that his father was serving as PSI which is a Group-B post on the basis of ad-hoc and temporary promotion. But the family pension to the mother of the applicant was fixed by the department and A.G. on the basis of pay scale of Rs.5200-20200 attached to the post of Head Constable. It is his contention that the office of respondent no.3 or the A.G. office had not considered the higher pay band of Rs.9300-34800 with Grade of Rs.4300/- attached to the post of PSI while sanctioning the family pension to his mother.

5. It is his further contention that his name continued in the waitlist of the eligible candidates for appointment on compassionate ground. All of a sudden on 26-04-2016, respondent no.3 issued letter to him informing that he is not eligible for getting employment on compassionate ground in view of the fact that his father was working as PSI on Group-B post at the time of his death on the basis of communication dated 09-09-2011 sent by Desk Officer, Home Department to the Commissioner of Police, Greater Mumbai. Therefore, the applicant approached this Tribunal by filing the present O.A.

6. It is contention of the applicant that the impugned order is in contravention of the provisions of the scheme made for appointment on compassionate ground. It is his contention that the mother of the applicant was getting family pension on the basis of pay scale attached to the post of Head Constable. The pensionary benefits were not given to the heirs of the deceased Subhash Thakur on the basis of pay scale attached to the post of PSI. Therefore, he has prayed to quash the impugned order by allowing the present O.A.

7. The Respondent Nos.1 to 3 have filed their affidavit-in-reply and resisted the contention of the Applicant. It is their

contention that the applicant has submitted an application for appointment on compassionate ground to the office of respondent no.3 and accordingly his name was included in the waiting list because his father was working as ad-hoc PSI at the time of death. It is their contention that after the death of Subhash Thakur, respondent no.3 submitted family pension proposal to A.G. under Group-B category but the A.G. has not sanctioned the family pension as Group-B employee because at the time of death of deceased Subhash Thakur, he was working as ad-hoc PSI and he was not regularly promoted to the post of PSI. Therefore, A.G. has sanctioned the family pension treating the deceased as employee under the Group-C category.

8. It is their contention that the Home Department by letter dated 09-09-2011 has informed that the post of PSI is a Group-B post and the scheme of appointment on compassionate ground is applicable to the heirs of deceased employees of Group-C and Group-D category only. Therefore, heirs of the deceased PSI are not entitled to get appointment on compassionate ground. It is their contention that in view of the said letter, respondent no.3 has informed the applicant by the impugned communication dated 26-04-2016 that he is not entitled to get appointment on

compassionate ground. It is their contention that there is no illegality in the impugned communication, and therefore, they have prayed to reject the O.A.

9. I have heard Shri A.S.Deshmukh learned Advocate for the Applicant and Smt. M.S.Patni learned Presenting Officer for the Respondents. I have perused the documents placed on record by the parties.

10. Admittedly, deceased Subhash Thakur was father of the Applicant and he died on 30-03-2013 while in service. Admittedly, deceased was initially appointed as Police Constable. Thereafter, he was designated as Police Naik. Thereafter, he was promoted as Police Head Constable. On 18-12-2007 deceased Subhash Thakur was promoted to the post of PSI on ad-hoc and temporary basis. Thereafter, he was continued on the same post till his death. At the time of his death, he was serving as PSI. Admittedly, he was getting pay scale of Rs.5500-9000 at the time of his death. Admittedly, the applicant moved an application dated 30-07-2013 after the death of his father for getting appointment on compassionate ground. On the basis of his application, his name was recorded in the waiting list of the eligible candidates to be appointed on compassionate ground.

Admittedly, his name continued in the waitlist till the issuance of impugned communication dated 26-04-2016. By the impugned communication dated 26-04-2016, the respondent no.3 informed the applicant that the post of PSI falls under the Group-B category and scheme to give appointment on compassionate ground to the heirs of the deceased Government employees is applicable to the heirs of deceased Group-C and Group-D employees only. Therefore, the applicant is not entitled to get employment on compassionate ground.

11. Admittedly, respondent no.3 sent proposal regarding family pension after the death of Subhash Thakur to A.G. Nagpur treating him as Group-B employee. But the A.G. Nagpur sanctioned family pension treating the deceased Subhash Thakur as Group-C employee. There is no dispute about the fact that initially Subhash Thakur was promoted on ad-hoc and temporary basis but by order dated 15-05-2019 he has been promoted as PSI on regular basis.

12. Learned Advocate for the applicant has submitted that the post of PSI falls under Group-C category. He has submitted that the A.G. has also sanctioned the family pension to the mother of the applicant observing that deceased Subhash

Thakur was serving on Group-C post at the time of his death. He has submitted that the name of the applicant has been enrolled in the waiting list for appointment on compassionate ground on his application. The applicant was once called to participate in the recruitment process by the respondent no.3 but at that time the applicant was not selected. Thereafter also the name of the applicant was continued in the waiting list but the respondent no.3 has issued the impugned communication on the basis of communication dated 09-09-2011 sent by Desk Officer, Home Department to Commissioner of Police, Greater Mumbai and informed the applicant that he is not entitled to get appointment on compassionate ground as his father was serving as PSI who was Group-B officer. He has submitted that the impugned order is illegal and therefore he has prayed to quash the impugned order.

13. Learned P.O. has submitted that the post of PSI is a Group-B post. Deceased Subhash Thakur was serving as PSI at the time of his death. Initially, he was promoted as PSI on temporary and ad-hoc basis but thereafter he was promoted on regular basis as PSI by order dated 15-05-2019. She has submitted that in view of the G.R. dated 02-07-2002 and G.R.

dated 27-05-2016, the post of PSI falls under the Group-B category. She has submitted that the pay scale of the post of PSI is 5500-9000 which falls under Group-B category in view of the G.R. dated 27-05-2016. She has submitted that in view of the provisions of the G.R. dated 21-09-2017, the scheme to provide employment to the heirs of deceased Government employees is applicable to the employees serving on Group-C and Group-D posts only. As father of the applicant was serving as PSI i.e. Group-B post at the time of his death, the applicant is not entitled to get employment under the said scheme. She has further submitted that the respondent no.3 has rightly issued the communication dated 26-04-2016. She has also placed reliance on the G.R. dated 28-08-2006 issued by the Home Department which shows that the post of PSI is treated as a Group-B post for the purpose of transfer as per the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005. She has submitted that the respondent no.3 has rightly issued the impugned communication and there is no illegality in the same. Therefore, she has supported the impugned order and prayed to dismiss the O.A.

14. On perusal of the documents on record it is crystal clear that the Government had introduced the scheme to provide the employment to the heirs of the deceased Government employees who died while in service. Thereafter, several modifications were made in the said scheme by the Government from time to time. The scheme has been modified in the year 1994 by the G.R. dated 26-10-1994 and thereafter several G.Rs. have been issued by the Government from time to time. The Government compiled all the G.Rs. and Circulars related to the scheme of compassionate appointment and issued G.R. dated 21-09-2017. As per the provisions of the said G.R., the scheme is applicable to the heirs of the deceased Government employees who died while serving on Group-C and Group-D post.

15. There is no dispute about the fact that father of the applicant i.e. deceased Subhash Thakur died on 30-03-2013 while in service. At the time of death of Subhash Thakur, he was serving as PSI. Admittedly, he was initially promoted as PSI on temporary basis. Thereafter, he was promoted on regular basis by order dated 15-05-2019. It means at the time of death of Subhash Thakur, he was serving as a PSI. Deceased Subhash Thakur was getting pay scale of Rs.5500-9000. The applicant,

being a son of the deceased Subhash Thakur, moved an application for getting appointment on compassionate ground to the respondent no.3 on 30-07-2013. Respondent no.3 rejected his application on 26-04-2016 on the ground that the deceased Subhash Thakur was a Group-B officer and therefore his heirs are not entitled to get appointment on compassionate ground in view of the provisions of the G.Rs.

16. It is material to note here that in the year 2002 i.e. on 02-07-2002 the Government issued G.R. classifying several posts on the basis of pay scales in different Groups i.e Group-A to Group-D by superseding the earlier G.R. dated 29-07-1993. Said G.R. is relevant. Therefore, the relevant provision of the G.R. dated 02-07-2002 is reproduced herein below:

“शासन निर्णय

चौथ्या वेतन आयोगाच्या अनुषंगाने केंद्र शासनाने वेतनश्रेणीनुसार ज्याप्रमाणे पदांचे वर्गीकरण केले, त्या धर्तीवर राज्य शासनाने परिस्थितीनुरूप काही बदल करून, राज्य शासन सेवेतील पदांचे वर्गीकरण उपरोल्लेखित दि. २९ जुलै, १९९३ च्या शासन निर्णयानुसार केले.

२. आता राज्य शासनाने पाचव्या वेतन आयोगाच्या अनुषंगाने सुधारीत वेतनश्रेणी मंजूर केल्या असल्याने, उपरोल्लेखित दि.२९ जुलै, १९९३ चा शासन निर्णय अधिकमित करून, राज्य शासन सेवेतील पदांचे सुधारीत वेतनश्रेणीनुसार खालीलप्रमाणे नव्याने वर्गीकरण करण्यात येत आहे.

अ.क्र.	पदांचा तपशिल	पदांचे वर्गीकरण
१.	ज्या पदांचे वेतन किंवा पदाच्या वेतनश्रेणीची कमाल मर्यादा रु.११,५००/- पेक्षा कमी नाही, अशी पदे,	गट - अ

२. ज्या पदांचे वेतन किंवा पदाच्या वेतनश्रेणीची कमाल मर्यादा रु.९,०००/- पेक्षा कमी नाही, आणि रु.११,५००/- पेक्षा कमी आहे, अशी पदे, गट - ब
३. ज्या पदांचे वेतन किंवा पदाच्या वेतनश्रेणीची कमाल मर्यादा रु.४,४००/- पेक्षा कमी नाही आणि रु.९,०००/- पेक्षा कमी आहे, अशी पदे, गट - क
४. ज्या पदांचे वेतन किंवा पदाच्या वेतनश्रेणीची कमाल मर्यादा रु.४,४००/- पेक्षा कमी आहे, अशी पदे, गट - ड ”

17. There was confusion regarding the classification of the pay scales. In order to remove the confusion, the Government has issued another G.R. dated 27-05-2016 and clarified the position as follows:

“प्रस्तावना :-

५ व्या वेतन आयोगाच्या अनुषंगाने राज्य शासन सेवेतील पदांचे गटनिहाय वर्गीकरण संदर्भाधीन शासन निर्णयान्वये करण्यात आलेले आहे. सदरहू शासन निर्णयातील पदांच्या वर्गीकरणाच्या अनुषंगाने रु. ५५००-९०००/- या वेतनश्रेणीतील पदे गट-ब मध्ये की गट-क मध्ये येतात असा संभ्रम निर्माण झाला आहे. सदरहू संभ्रम दूर करण्याच्या अनुषंगाने दि.०२.०७.२००२ च्या शासन निर्णयातील तपशिलाबाबत व पदांच्या वर्गीकरणाबाबत स्पष्टीकरण करण्याचे शासनाच्या विचाराधीन होते.

शासन निर्णय :-

दि.०२.०७.२००२ च्या शासन निर्णयातील तपशिलाबाबत व पदांच्या वर्गीकरणाबाबत या शासन निर्णयात खालीलप्रमाणे स्पष्टीकरण करण्यात येत आहे:-

अ. क्र.	पदांचा तपशिल	स्पष्टीकरण	वेतनश्रेण्या	पदांचे वर्गीकरण
१.	ज्या पदांचे वेतन किंवा पदाच्या वेतनश्रेणीची कमाल मर्यादा रु. ११५००/- पेक्षा कमी नाही,	ज्या वेतनश्रेणीची कमाल मर्यादा रु.११५००/- व त्यापेक्षा अधिक आहे अशी पदे	रु.७४५०-११५०० व वरील वेतनश्रेणीच्या पेक्षा जास्त वेतनश्रेणी असलेली पदे	गट-अ

	अशी पदे			
२.	ज्या पदांचे वेतन किंवा पदाच्या वेतनश्रेणीची कमाल मर्यादा रु. ९०००/- पेक्षा कमी नाही आणि रु.११५००/- पेक्षा कमी आहे, अशी पदे	ज्या वेतनश्रेणीची कमाल मर्यादा रु.९०००/- ते रु.११४९९ या दरम्यान आहे अशी पदे	१. ५५००-१७५-९००० २. ६०००-१७५-९८५०-१५०-१०००० ३. ६५००-२००-१०५०० ४. ७२२५-२२५-११०५० ५. ७४५०-२२५-११०५०	गट-ब
३.	ज्या पदांचे वेतन किंवा पदाच्या वेतनश्रेणीची कमाल मर्यादा रु. ४४००/- पेक्षा कमी नाही आणि रु.९०००/- पेक्षा कमी आहे, अशी पदे	ज्या वेतनश्रेणीची कमाल मर्यादा रु.४४००/- ते रु.८९९९ या दरम्यान आहे अशी पदे	१. २७५०-४४०० २. ३०५०-४५९० ३. ३२००-४९०० ४. ४०००-६००० ५. ४५००-१२५-७००० ६. ५०००-८०००	गट-क
४.	ज्या पदांचे वेतन किंवा पदाच्या वेतनश्रेणीची कमाल मर्यादा रु. ४४००/- पेक्षा कमी आहे, अशी पदे	ज्या वेतनश्रेणीची कमाल मर्यादा रु.४३९९/- व त्यापेक्षा कमी आहे अशी पदे	१. २६५०-४००० २. २६१०-४००० व सदरहू वेतनश्रेणी पेक्षा कमी वेतनश्रेणी असलेली पदे	गट-ड

18. On going through the said G.Rs. it is crystal clear that the Government had classified the different pay scales under 4 categories i.e. Group-A to Group-D. The posts having pay scale of Rs.5500-9000 and above are classified as Group-B posts in view of the G.R. dated 27-05-2016. Deceased Subhash Thakur was receiving pay scale of Rs.5500-9000 at the time of his death. Said G.R. itself shows that the posts having pay scale of Rs.5500-9000 fall under the Group-B category. Therefore, post of PSI which is having pay scale of Rs.5500-9000 falls under Group-B category. The heirs of the Group-B employees are not entitled to

claim appointment on compassionate ground in view of the decision taken by the Government as well as the different G.Rs. which are compiled in G.R. dated 27-05-2016. Respondent no.3 has rightly interpreted the provisions in the G.R. dated 27-05-2016 and rejected the application of the applicant by the impugned communication dated 26-04-2016. I find no irregularity in the same. Therefore, in my view, no interference is called for in the impugned order.

19. I have gone through the documents and G.Rs. relied upon by the parties. The G.R. dated 27-05-2016 specifically provides that the post having pay scale of Rs.5500-9000 falls under Group-B category. Deceased Subhash Thakur was receiving pay scale of Rs.5500-9000 at the time of his death. Said G.R. shows that the posts having pay scale of Rs.5500-9000 fall under the Group-B category. Therefore, heirs of the deceased Group-B employees are not entitled to claim appointment on compassionate ground in view of the decision taken by the Government as well as the different G.Rs. which are compiled in G.R. dated 27-05-2016 and the scheme is applicable only to the heirs of deceased Government employees died while serving on Group-C and Group-D posts. Therefore, I do not find any

illegality in the impugned communication date 26-04-2016 issued by the respondent no.3. Therefore, no interference in the impugned order is called for. There is no merit in the O.A. Consequently, it deserves to be dismissed.

20. In view of the discussion in the foregoing paragraphs O.A. stands dismissed without any order as to costs.

PLACE :- AURANGABAD.
DATE :- 25.09.2019

(B.P. PATIL)
ACTING CHAIRMAN

Sas/kpb/yuk O.A.No.783 of 2018 Compassionate Appointment