

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 846 OF 2016  
(Subject – Compassionate Appointment)**

**DISTRICT: AURANGABAD**

**Shri Kishor S/o. Atmaram Bagul** )  
Age: 28 years, Occu. : Labour, )  
R/o Wadi, Tq. Soyagaon, )  
Dist. Aurangabad ) .. **APPLICANT**

**V E R S U S**

- 1) **The State of Maharashtra,** )  
Through it's:- Secretary, )  
Water Resources Department, )  
Mantralaya, Mumbai-32. )
- 2) **The Executive Engineer,** )  
Aurangabad Division, )  
(Irrigation Department) )  
Sinchan Bhavan, Jalna Road, )  
Aurangabad. )
- 3) **Assistant Engineer (Grade-I),** )  
Irrigation Department, )  
Sub-Division Sillod, )  
Tal:- Sillod, Dist:- Aurangabad. ) .. **RESPONDENTS**

**APPEARANCE** : Shri M.K. Bhosle, Advocate for the Applicant.

: Smt. Sanjivani K. Deshmukh-Ghate, Presenting  
Officer for Respondents.

**CORAM : HON'BLE SHRI B.P. PATIL, MEMBER (J).**

**DATE : 31.05.2018.**

**O R D E R**

1. The applicant has challenged the letter dated 05.09.2012 issued by the respondent No. 2 thereby rejecting his application to appoint him on compassionate ground and sought

direction to the respondents to consider his application for the appointment on compassionate ground.

2. The father of the applicant viz. Atmaram Bagul was serving as a Canal Labourer in the Irrigation Department under the control and supervision of respondent No. 3. Atmaram Bagul died on 16.12.2010 while in service. He was the sole bread earner in the family.

3. The applicant has passed S.S.C. examination, but failed in H.S.C. examination. He belongs to Bhil Community which is recognized as Scheduled Tribe category. After death of his father, his younger brother viz. Shri Anil Atmarao Bagul approached the respondent No. 3 by filing the application dated 21.05.2011 and requested to give information regarding required documents and prescribed form for appointment on compassionate ground. He has filed the affidavits of his mother, Married Sister and brother of the applicant by giving no objection to appoint the applicant in place of their deceased father Shri Atmaram Bagul. Thereafter, on 23.05.2011 Shri Anil Atmaram Bagul once again filed another application with the same request in the office of respondent No. 3 and requested to give the information in that regard. In response to the said letter, the respondent No. 3 informed the applicant on 24.05.2011 to collect the heirship certificate from the competent Court and submit the

application/proposal for appointment on compassionate ground thereafter in the office of respondent No. 2. Accordingly, the applicant approached the Court of Civil Judge (Jr. Division), Soygaon and filed Misc. Civil Application No. 06/2011 on 27.06.2011 claiming heirship certificate. But their application came to be rejected on 16.03.2012 on the ground that no movable and immovable property were mentioned in the application. Thereafter, he filed another Misc. Civil Application No. 16/2012 before the Civil Judge (Jr. Division) Soygaon claiming succession certificate, in which the Court was pleased to grant succession certificate on 29.06.2013 in favour of the applicant along with his family members. It is their contention that by that time, the applicant had moved an applications dated 21.05.2011, 23.05.2011 and 24.07.2012 with the respondents claiming appointment on compassionate ground. In response to the last communication filed by the applicant on 26.07.2012, the respondent No. 2 by its communication dated 05.09.2012 informed him that the applicant had not filed the application within prescribed time limit and therefore, his application cannot be considered. It is contentions of the applicant that the said communication issued by the respondent No. 2 is against the provisions of several G.Rs. issued by the Government from time to time. The respondent No. 2 had not considered the fact that the applicant applied previously also for appointment on

compassionate ground and as per the direction given by the respondent No. 3, he along with his family members tried to get heir-ship certificate and succession certificate and thereafter filed the said documents. It is his contention that the respondent no. 2 without considering the said facts rejected his application and therefore, he approached the Hon'ble High Court of Judicature at Bombay Bench at Aurangabad, by filing W.P. No. 10237/2013, which came to be disposed of on 23.09.2014 with a direction to approach the competent forum and accordingly, applicant has filed the present Original Application and prayed to quash and set aside the impugned communication dated 05.09.2012 issued by the respondent No. 2.

4. The respondent Nos. 2 and 3 have filed their affidavit in reply and resisted the contentions of the applicant. It is their contention that the respondent No. 2 has rightly rejected the application of the applicant on the ground that he had not filed the application within prescribed period and the applicant ought to have filed the application for appointment on compassionate ground within a period of one year from the date of death of his father, but the applicant has filed the application beyond prescribed period. Therefore, respondent No. 2 has rightly rejected the application of the applicant. They have not denied the fact that the brother of the applicant namely Anil Bagul sought

necessary information from them in that regard. They have denied that the application of the applicant was rejected by the respondent No. 2 in contraventions of the provisions of G.Rs. issued by the State Government from time to time. It is their contention that the respondent No. 2 has rightly rejected the application of the applicant. Therefore, they prayed to reject the Original Application.

5. I have heard Shri M.K. Bhosle, learned Advocate for the applicant and Smt. Sanjivani K. Deshmukh-Ghate, learned Presenting Officer for the respondents. I have perused the documents placed on record by both the parties.

6. Admittedly, the father of the applicant Shri Atmaram Bagul was serving as a Canal Labourer on the establishment of respondent No. 2. Admittedly, Shri Atmaram Bagul died on 16.12.2010 leaving behind the applicant, another son Anil, his widow and married daughter as his legal heirs. Admittedly, after death of Shri Atmaram Bagul, the brother of the applicant viz. Shri Anil Bagul filed applications dated 21.05.2011 and 23.05.2011 with the respondent No. 3 seeking information about the required documents and necessary form for the appointment on compassionate ground. The respondent No. 3 by communication dated 24.05.02011 directed him to collect heirship certificate from the competent authority and to file

application thereafter with the respondent No. 2. There is no dispute about the fact that in pursuance of the said letter, the applicant approached the Civil Court (Jr. Division) Soygaon by filing Civil Misc. Application No. 06/2011 on 27.06.2011 for issuance of heirship certificate. But their application came to be rejected on 16.03.2012 as they had not mentioned movable and immovable property in the application. Therefore, they again filed Civil Misc. Application No. 16/2012 in the Court of Civil Judge (Jr. Division), Soygaon and claimed succession certificate. The said application came to be allowed on 29.06.2013 and succession certificate was issued in their favour. Thereafter, they have filed application dated 26.07.2012 before the respondent No. 2 seeking appointment on compassionate ground. But the respondent No. 2 by its communication dated 05.09.2012 rejected the application of the applicant on the ground that he had not filed the application in time and therefore, the same cannot be considered.

7. Learned Advocate for the applicant has argued that the respondent No. 2 has wrongly rejected the application of the applicant by impugned communication dated 05.09.2012 on the ground that the application was not filed in time. He has submitted that the applicant has moved applications on 21.05.2011 and 23.05.2011 and those applications were filed

within one year from the date of death of his father. The father of the applicant died on 16.12.2010. He has submitted that in response to the application dated 21.05.2011, the respondent No. 3 informed the applicant to procure heirship certificate and to produce it before the respondent No. 2. Therefore, the applicant and his family members approached to the Civil Court (Jr. Division) Soygaon for issuance of heirship certificate and after rejection of their application they moved another application for issuing succession certificate and after receiving succession certificate on 29.06.2013, they filed same along with application dated 26.07.2012 before the respondent No. 2. He has submitted that since earlier application dated 21.05.2011 and 23.05.2011 were pending with the respondent No. 2, the respondent No. 2 ought to have considered those applications which were filed in time and enrolled the name of the applicant in the waiting list of the eligible candidates to be appointed on compassionate ground. But without considering the said fact, the respondent No. 2 by communication dated 05.09.2012 has wrongly concluded that the application of the applicant cannot be considered as it is beyond prescribed period of time. He has attracted my attention to the provisions of G.R. dated 21.09.2017 in which earlier G.Rs. issued by the Government has been compiled. He has submitted that the in view of the G.R. dated 23.08.1996, it is incumbent on the concerned authority where the deceased employee was serving to

inform the relatives of the deceased regarding scheme, limitation to file application, required documents etc. within a period of 15 days after death of Government employee. He has submitted that the period of filing application for appointment on compassionate ground is one year from the date of death of deceased employee, but the said period can be extended for further two years by condoning delay in view of the G.R. dated 20.05.2015. He has submitted that in fact there is no delay on the part of the applicant in filing the application for appointment on compassionate ground. The brother of the applicant has filed the application dated 21.05.2011 along with affidavits of his mother, married sister and himself to the respondent No. 3 stating that they have no objection to appoint the applicant on compassionate ground. But the respondent No. 3 had directed them to obtain heirship certificate and to file application thereafter with the respondent No. 2. Therefore, the applicant approached the Civil Court (Jr. Division) Soygaon by filing Civil Misc. Application No. 06/2011 on 27.06.2011 for issuance of heirship certificate. But their application came to be rejected on 16.03.2012 as they have not mentioned movable and immovable property in the application. Therefore, they again filed Civil Misc. Application No. 16/2012 in the Court of Civil Judge (Jr. Division), Soygaon and claimed succession certificate. The said application came to be allowed on 29.06.2013 and succession certificate was issued in their favour.

Thereafter, they filed application dated 26.07.2012 before the respondent No. 2 seeking appointment on compassionate ground. The respondents had not considered the said facts and issued impugned communication dated 05.09.2012. Therefore, he prayed to allow the present Original application and direct the respondents to consider the case of the applicant afresh.

8. Learned Presenting Officer has submitted that the respondent No. 2 has rightly rejected the application of the applicant as the applicant had moved the application dated 23.07.2012 one year after death of his father Shri Atmaram Bagul, who died on 16.12.2010 and accordingly, informed the applicant by communication dated 05.09.2012. He has submitted that the decision of the respondent No. 2 is as per the provisions of the G.Rs. issued by the State Government from time to time and there is no illegality in it. Therefore, he prayed to reject the present Original Application.

9. On perusal of the record it reveals that the father of the applicant Shri Atmaram Bagul died on 16.12.2012. After his death, the brother of the applicant viz. Shri Anil Atmaram Bagul moved an application dated 21.05.2011, page no. 19 (Annexure A-3) along with affidavit of the applicant, his mother, sister and he himself with the respondent No. 3 to give necessary information in that regard. Not only this, but thereafter on 23.05.2011 he moved

another application. In the said application dated 23.05.2011 it has been mentioned that the applicant Shri Kishor Atmaram Bagul filed application for appointment on compassionate ground. In response to the said application, the respondent No. 3 replied by communication dated 24.05.2011, page no. 33 (Annexure A-5) to produce heirship certificate and the application is not in proper format. In pursuance of the said letter, the applicant approached the Civil Judge (Jr. Division), Soygaon by filing Civil Misc. Application No. 06/2011 for issuance of legal heirship certificate but it was rejected on 16.03.2012. Therefore, he filed another Civil Misc. Application No. 16/2012 claiming succession certificate and it was issued in favour of the applicant on 29.06.2013. After issuance of succession certificate, he produced the same along with application in proper format with the respondent No. 2. But the said application has not been considered by the respondent No. 2 as it was not in time and accordingly the applicant was informed by communication dated 05.09.2012.

10. I have gone through the G.R. dated 21.09.2017 it is a compilation of the earlier G.Rs. which provides that as per G.R. dated 23.08.1996 and Government Circular dated 05.02.2010 it is incumbent on the part of the concerned authority to inform the legal heirs of the deceased employee within 15 days about the

scheme, limitation for filing application, required documents, educational qualification and filing of the application in prescribed format etc. The relevant G.R. is material hence, reproduced below :-

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अनुकंपा तत्वावर शासन सेवेत नियुक्ती  
देण्यासंदर्भात निर्गमित करण्यात आलेल्या  
शासन निर्णय/परिपत्रक यांचे एकत्रिकरण

**महाराष्ट्र शासन**  
**सामान्य प्रशासन विभाग**  
**शासन निर्णय क्रमांक : अकंपा १२१७/प्र.क. १०२/आठ**  
हुतात्मा राजगुरु चौक, मादाम कामा रोड,  
मंत्रालय, मुंबई ४०००३२.  
दिनांक : २१ सप्टेंबर, २०१७.

वाचा : .....

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प्रस्तावना :

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**परिशिष्ट - अ**

(शासन निर्णय क्रमांक : अकंपा १२१७/प्र.क. १०२/आठ, दिनांक २१ सप्टेंबर, २०१७)

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(७) **योजनेची माहिती देण्याची जबाबदारी :-**

(अ) आस्थापना अधिका-याने अनुकंपा तत्वावर नियुक्तीच्या योजनेची माहिती (योजनेचा उद्देश, पात्र नातेवाईक, अर्ज करण्याची मुदत, शैक्षणिक अर्हता, टंकलेखन प्रमाणपत्र सादर करण्यास मुदत, अर्ज विहित नमुन्यात भरणे इ. माहिती) शासकीय कर्मचा-यांच्या मृत्युनंतर १५ दिवसानंतरकिंवा कुटुंबनिवृत्तीवेतनाची कागदपत्रे पाठविताना शासकीय कर्मचा-यांच्या कुटुंबियांना त्वरीत उपलब्ध करून देणे आवश्यक आहे. तसेच सदर माहिती मिळाल्याबाबत कुटुंबाकडून पोच घेणे आवश्यक आहे.(शासन निर्णय, दि. २३.०८.१९९६ व शासन परिपत्रक दि. ५.२.२०१०)”

No such information has been supplied to the applicant and his family members by the respondent Nos. 2 and 3 after death of deceased employee Shri Atmaram Bagul. On the contrary, the applicant and his brother approached to the respondent No. 3 and sought information about the requisite documents and the procedure to be followed for filing application for appointment on compassionate ground, which is evident from the applications dated 21.05.2011 and 23.05.2011 filed by the applicant. The respondent No. 3 informed the applicant by communication dated 24.05.2011 and directed the applicant to produce heriship certificate. It means that the applicant had moved the application for appointment on compassionate ground within prescribed time. He has to produce required documents in support of his application and by communication dated 24.05.2011, the respondent No. 3 directed him to file application in proper format and to produce heriship certificate. The applicant has accordingly made compliance and filed the application after receiving succession certification in the year 2012. In view of the Government Circular dated 05.02.2010, the name of the applicant cannot be entered in the waiting list till the required documents are received from him and his name will be entered in the waiting list on receiving the entire required documents. Even considering the said provisions it was incumbent on the part of the respondent No. 2 to consider the application of the applicant on

production of the entire documents and to take appropriate decision on it. But the respondent No. 2 had not considered the earlier applications filed by the applicant on 21.05.2011 and 23.05.2011 which were within prescribed period of limitation as per the G.R. and therefore, he has wrongly arrived conclusion that the application filed by the applicant was not within prescribed period of limitation and therefore, he had not considered the same. The impugned order issued by the respondent No. 2 on 05.09.2012 is not in accordance with the G.Rs. issued by the State Government from time to time and compiled in the G.R. dated 21.09.2017. Therefore, in my opinion, it is just and proper to quash and set aside the impugned communication dated 05.09.2012 issued by the respondent No. 2 and to direct the respondent No. 2 to consider the case of the applicant afresh in view of the earlier applications filed by him on 21.05.2011 and 23.05.2011 and to take appropriate decision afresh considering the various G.Rs. issued by the State Government in that regard from time to time. Therefore, the O.A. deserves to be allowed.

11. In view of the discussions made above, the O.A. is allowed. The impugned communication dated 05.09.2012 issued by the respondent No. 2 is hereby quashed and set aside. The respondent No. 2 is directed to consider the applications dated 21.05.2011 and 23.05.2011 filed by the applicant afresh and to

take conscious decision as per the rules on merit within a period of three months from the date of the order. There shall be no order as to costs.

**PLACE : AURANGABAD.**  
**DATE : 31.05.2018.**

**(B.P. PATIL)**  
**MEMBER (J)**

**KPB** S.B. O.A. No. 846 of 2016 BPP 2018 Comp. Appointment