

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 759 OF 2015**

**DISTRICT:DHULE**

Shri Yogesh Dilip Netkar,  
Age: 32 years, Occu. : Nil,  
R/o : 4, Anirudha Nagar, Sakri Road,  
Dhule, Tq. & Dist. Dhule.

.. **APPLICANT**

**V E R S U S**

- 1) The State of Maharashtra,  
Through its Secretary, Home Dept.,  
Mantralaya, Mumbai-32.

(Copy to be served on C.P.O. Maharashtra  
Administrative Tribunal, Bench At Aurangabad)

- 2) The Collector,  
Dhule, Tq. & Dist. Dhule.
- 3) The Superintendent of Police  
Dhule, Tq. & Dist. Dhule.

.. **RESPONDENTS**

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**APPEARANCE** : Shri Y.B. Bolkar, learned Advocate for the  
Applicant.

: Shri V.R. Bhumkar, learned Presenting Officer  
for the Respondents.

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

**(Delivered on this 06<sup>th</sup> day of June, 2017.)**

1. The applicant has prayed to quash and set aside the communications dated 21.01.2015 and 04.03.2015 issued by the respondent no. 3; thereby rejecting the claim of the applicant for

appointment on compassionate ground and sought direction to respondent no. 3 to issue appointment order in favour of the applicant on compassionate ground.

2. It is the contention of the applicant that his father Shri Dilip Netkar was appointed as Police Peon on the establishment of the respondent no. 3 in the year 1978. In the year 2004, his father successfully passed the Competitive Examinations and thereby he was appointed as Police Sub Inspector, Dhule Taluka Police Station, Dhule. On 7.4.2014, the father of the applicant was suffered from hyper tension and therefore, he was admitted in the hospital. During the course of treatment, he died on 12.04.2014 leaving behind the applicant and other family members as his legal heirs. It is the contention of the applicant that deceased Dilip Netkar died leaving behind him his wife and 3 sons namely Yogesh, Rakesh & Abhay as his legal heirs. On 1.07.2014, the mother of the applicant has filed application with the respondent no. 3 and requested to appoint the applicant on compassionate ground on the post of Police Peon on its establishment. She has also filed legal heir-ship certificate with the application. On 11.9.2014, the respondent no. 3 informed the mother of the applicant that her application has been rejected on the ground that the brother of the applicant i.e. Rakesh Dilip

Netkar is working under the establishment of respondent no. 3 as Police Peon. It is the contention of the applicant that the respondent no. 3 has not considered the fact that the Rakesh Dilip Netkar is residing separately from his mother and the applicant, and he is not looking after them. As the respondent no. 3 has not considered the said aspect, the mother of the applicant has filed detailed representation to the respondent no. 3 and thereby prayed to appoint the applicant on compassionate ground. She has also given instances in which a person has been appointed on compassionate ground, though his brother is serving in police department. She has submitted that the said representation has been filed before the respondent no. 3 on 19.01.2015. On 21.01.2015, the respondent no. 3 informed the mother of the applicant that her representation cannot be considered, since her another son i.e. Rakesh Dilip Netkar is serving on its establishment and it had relied on G.R. dated 26.10.1994. Therefore, the mother of the applicant has requested the Special Inspector General of Police, Nashik Region, Nashik vide representation dated 02.02.2015 to appoint the applicant on compassionate ground. The Special Inspector General of Police, Nashik Region, Nashik directed the respondent no. 3 to look into the matter and take decision in the matter on merit, vide its communication dated 13.02.2015. Respondent no. 3 rejected the

application vide its communication dated 4.3.2015. The mother of the applicant again approached the Director General of Police and Additional Director General of Police, State of Maharashtra, Mumbai, by filing applications dated 4.4.2015 and 8.4.2015. The office of the Additional Director General of Police, State of Maharashtra, Mumbai by its communication dated 30.04.2015 has directed the mother of the applicant to approach the respondent no. 3 for redressal of her grievance. Accordingly, she again approached the respondent no. 3 and filed application dated 1.9.2015, but the respondent no. 3 had informed her that her application cannot be considered. It is the contention of the applicant that the Superintendent of Police, Nandurbar and Dhule appointed the person on their establishment, though the brother of the person was already in service on their establishment. It is contention of the applicant that the respondent no. 3 i.e. the Superintendent of Police Dhule has rejected the applications of the mother of the applicant wrongly and illegally and therefore, he filed present Original Application and prayed to quash the communications dated 21.01.2015 and 4.3.2015 issued by respondent no. 3 and also sought direction to respondent no. 3 to appoint him on the post of Police Peon on compassionate ground.

3. The respondent nos. 1 to 3 have filed affidavit in reply and refuted the contention of the applicant. It is their contention that the mother of the applicant submitted application on 1.7.2014 for appointment on compassionate ground without filing heir-ship certificate which was essential document. The respondent no. 3 by its communication dated 11.9.2014 informed the mother of the applicant that as per G.R. No. Anukamp/ 1093/ 2335/Case No. 90/93/8 dated 26.10.1994 and G.R. No. Anukamp-1004/ Case No. 51/2004/8 dated 22.08.2005 the brother of the applicant namely Rakesh Anil Netkar is in Government service in police department and financial condition of the family of the applicant is not bad and therefore, the respondent no. 3 had rejected the applications of the mother of the applicant.

4. It is their contention that the applicant's mother received Rs. 11 lac on account of gratuity and other pensionary benefits and she is getting family pension of Rs. 9190/-. It is their contention that the application has been rejected as the applicant was not eligible to get appointment on compassionate ground in view of the said G.R. It is their contention that the respondent no. 3 has rightly rejected the applications of the applicant and therefore, they prayed to dismiss the present O.A.

5. The respondent no. 3 filed additional affidavit in reply and contended that the deceased father of the applicant i.e. Shri Dilip Netkar was serving as Police Sub-Inspector. He was getting salary in the pay band of Rs. 5500-9000 at the time of his death. The post of Police Sub-Inspector is Class-II post and therefore, the applicant is not entitled to get appointment on compassionate ground in view of the above said G.R. It is contended by it that in view of the Circular No. DGP/8/46-F/Compassionate (Waiting list)/143/2016 dated 24.08.2016 and the G.R. of Government of Maharashtra, General Administration Department number AKP-1004/PK 51/2004/8 dated 22.08.2005, the appointment on compassionate ground can be given to the legal heir of the deceased employee, who is expired in service and belonging to Class-C and Class-D only. It is contended by it that in view of the G.R. and Circular the applicant is not entitled to get appointment on compassionate ground and therefore, the respondents urged to reject the present O.A.

6. Heard Shri Yogesh B. Bolkar, learned Advocate for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondents. I have perused the affidavit, affidavit in reply, additional affidavit in reply and various documents placed on record by the respective parties.

7. Learned Advocate for the applicant submitted that the father of the applicant Shri Dilip Netkar was serving as Police Sub-Inspector at the time of his death. He died on 12.04.2014 due to brain stroke. He died leaving behind him, his wife, the applicant and his other two sons viz. Rakesh and Abhay as his legal heirs. The brother of the applicant i.e. Rakesh Netkar has joined the service on the establishment of respondent no. 3 as a Police Peon during the lifetime of his father Shri Dilip Netkar. Shri Rakesh Netkar is living separately along with his wife and he is not taking care of the applicant, his mother and his another brother i.e. Abhay Netkar. There is no other fit person to take care of the applicant and his family members. It is difficult for them to survive in family pension amount and therefore, the mother of the applicant filed application dated 1.7.2014 (Annexure A-1) which is at page no. 13 of the paper book with the respondent no. 3 and requested to give appointment to the applicant on compassionate ground, but the respondent no. 3 by its communication dated 11.9.2014 rejected her application on the ground that her elder son Shri Rakesh Netkar is serving on its establishment. Therefore, the mother of the applicant again filed another application dated 19.01.2015, which was addressed to the respondent no. 3 stating therein that in the other similar cases the appointment has been given to the persons whose

brother is already in service and therefore, she prayed to reconsider her application and appoint the applicant on compassionate ground. The learned Advocate for the applicant has also submitted that the respondent no. 3 vide its communication dated 21.01.2015 rejected her application dated 19.01.2015. He has argued that thereafter, the applicant approached to the Special Inspector General, Nashik Region, Nashik mentioning all these facts. Her application was forwarded to the respondent no. 3 and the respondent no. 3 again by its communication dated 4.3.2015 informed her that her application cannot be considered as elder son is in service. Therefore, the applicant approached to the Director General of Police and the Additional Director General of Police, State of Maharashtra, Mumbai on 04.04.2015 & 8.4.2015 respectively. She was directed to approach to the respondent no. 3, who is competent authority. Accordingly, she filed one more application dated 1.9.2015 with the respondent no. 3, but the respondent no. 3 had not considered her application.

8. The learned Advocate for the applicant has submitted that the Superintendent of Police, Nandurbar and Dhule appointed a person whose brother was already in Government service. He has argued that the information in that regard



submitted by the Superintendent of Police, Nandurbar and the Assistant Commissioner of Police (Administration), Nashik City has been produced by the applicant before the respondent no. 3, but the said fact has not been considered by the respondent no. 3. He has attracted my attention to the information collected by the applicant in that regard which is at page nos. 41 & 42 (both inclusive). He has argued that it is the duty of the respondent no. 3 to collect the information as regards financial condition of the applicant and verify whether the another earning member is in the family and who is maintaining them. But the respondent no. 3 has not considered the said aspect and wrongly rejected the applications. Therefore, he prayed to quash the communications dated 21.01.2015 and 4.3.2015 issued by respondent no. 3 and to direct the respondent no. 3 to appoint the applicant on compassionate ground.

9. Learned Presenting Officer has submitted that the respondent no. 3 had rightly rejected the applications of the applicant's mother in view of the guidelines issued in G.R. No. Anukamp/1093/2335/Case No. 90/93/8 dated 26.10.1994 and G.R. No. Anukamp-1004/Case No. 51/2004/8 dated 22.08.2005. He has submitted that in view of the said G.R., it was one of the essential conditions that no member from the family of the

applicant should be in the Government service. He has submitted that the elder brother of the applicant viz. Shri Rakesh Netkar was serving as Police Peon on the establishment of the respondent no. 3 and therefore, the application of the mother of the applicant has not been considered and it was rightly rejected by the respondent no. 3. He has attracted my attention towards the guidelines given in the G.R. dated 26.10.1994. He has argued that the applicant's mother was informed accordingly from time to time by the respondent no. 3. He has submitted that the instances cited by the applicant are not helpful to the applicant to claim appointment on compassionate ground, as those appointments were not made in accordance with the guidelines given in the above said Government Resolutions.

10. Learned Presenting Officer has further submitted that the deceased Shri Dilip Nertkar was serving as Police Sub-Inspector. He was getting salary in the pay band of Rs. 5500-9000 and he was Class-II (Non Gazetted) officer and therefore, in view of the said G.R. dated 26.10.1994 the applicant is not entitled to claim appointment on compassionate ground. He has submitted that the Government of Maharashtra, General Administration Department by its G.R. dated 27.05.2016 has clarified the said fact. Not only this, but the Home Department by its letter No.

आरसीटी-०२०९/प्र. १४६/पोल-५ब dated 9<sup>th</sup> September, 2011 has informed that the post of Police Sub-Inspector is falling under Class-B category and therefore, their family members cannot claim appointment on compassionate ground. The said fact has also been clarified by the Special Inspector General of Police (Administration) by the Circular dated 24.08.2016 (Annexure R-1) which is at page no. 65 of the paper book. He has argued that in view of the said fact, the applicant is not entitled to get appointment on compassionate ground and therefore, the decision of the respondent no. 3 rejecting the application of the mother of the applicant is proper, legal and correct. Therefore, he prayed to reject the present O.A.

11. It is admitted fact that the deceased Dilip Netkar, father of the applicant, was serving as Police Sub-Inspector in Dhule Taluka Police Station, Dhule and he died on 12.04.2014. Admittedly, he was getting salary in the pay band of Rs. 5500-9000 at the time of his death. In view of the G.R. dated 27.05.2016 issued by the General Administration Department, the employees getting pay in the pay band of Rs. 5500-9000 are falling under the Class-B category. The post of Police Sub-Inspector is Class-B category. The Home Department of Government of Maharashtra by its letter dated 9<sup>th</sup> September,

2011 has clarified that the post of Police Sub-Inspector is a Class-B post and therefore, the appointment on compassionate ground cannot be given to their family members and the G.R. of 26.10.1994 is not applicable to them. The said fact has been circulated by Special Inspector General of Police (Administration), Mumbai by the Circular dated 24.08.2016 which is at paper book page no. 65. The G.R. dated 26.10. 1994 as well as G.R. dated 22.08.2005 is applicable to the employees belonging to Class-C and Class-D category only. The said G.Rs. are not applicable to the Class-B employees. The deceased Dilip Netkar was a Class-B employee and therefore, his family members cannot claim appointment on compassionate ground on the basis of G.R. dated 24.08.1994. The respondent no. 3 has rightly rejected the application of the mother of the applicant. Not only this, but the above said G.R. specifically provides that if any family member of the deceased employee is in Government service, then the another family member cannot claim employment on compassionate ground. In such cases, the appointing authority has to take care to see that the provisions of the G.R. cannot be misused. The brother of the applicant viz. Rakesh Netkar is in Government service and therefore, the respondent no. 3 has rightly rejected the application. There is no illegality in the order issued by the respondent no.3 in that regard. As the G.Rs. dated 26.10.1994

and 22.08.2005 are not applicable to the employees belonging to Class-B category, the applicant is not entitled to get appointment on compassionate ground and therefore, the claim of the applicant cannot be considered. There is no illegality in the communications dated 21.01.2015 and 04.03.2015 issued by the respondent no. 3 informing the applicant's mother about rejection of her claim regarding appointment of her son i.e. the applicant on compassionate ground. There is no merit in the O.A. Consequently, it deserves to be dismissed.

12. Accordingly, the Original Application stands dismissed with no order as to costs.

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

**KPB/S.B. O.A. No. 759 of 2015 BPP 2017 Comp. App.**