

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
REVIEW APPLICATION NO. 06/2023
IN C.A.NO.178/2020
IN ORIGINAL APPLICATION (St.) NO.800/2020(S.B.)

Yogesh S/o Govindrao Meshram,
Aged about 30 years, Occ.: Nil,
R/o Vaibhav Nagar, Waghapur Road,
Lohara, Yavatmal, Tq. and District : Yavatmal.

Applicant.

Versus

1. The State of Maharashtra,
Through its Secretary,
Home Department, Mantralaya, Mumbai-32.
2. The State of Maharashtra,
Through its Secretary,
General Administration Department,
Mantralaya, Mumbai-440 032.
3. The Inspector General of Police,
Camp Road, Near Malltekadi,
Amravati, 444602.
4. The Superintendent of Police,
Yavatmal, Office at LIC Square,
Yavatmal-445001.

Respondents

Shri N.S.Warulkar, Ld. Counsel for the applicant.
Shri A.P.Potnis, Ld. P.O. for the respondents.

Coram:-Hon'ble Shri Justice M.G.Giratkar,
Vice Chairman.

Dated: - 21st September, 2023.

JUDGMENT

Heard Shri N.S.Warulkar, learned counsel for the applicant and Shri A.P.Potnis, learned P.O. for the Respondents.

2. The applicant has filed O.A.St.No.800/2020 along with C.A.No.178/2020 for condonation of delay. This Tribunal as per order dated 17.09.2021 dismissed the C.A. holding that the applicant has filed O.A. after 8 years and therefore C.A. as well as O.A.(St.) came to be dismissed.

3. Therefore, the present Review Application is filed. Respondents have filed reply and submitted that the mother of applicant applied for appointment on compassionate ground, after the death of her husband. The mother of applicant had completed 40 years of age on 10.04.2000. Therefore, her name was deleted from the waiting seniority list. It is observed by this Tribunal that the present O.A.(St.) is hopelessly barred by limitation because the

applicant has not approached to this Tribunal within one year from the date of rejection of prayer for substitution of his name.

4. The learned counsel for the applicant has submitted that applicant has applied for substitution of his name on 18.09.2009. The said application was wrongly rejected by the respondents on the ground that substitution is not provided. Thereafter, the applicant made several representations to the respondents. His mother also made application on 11.08.2011 stating that without any information her name was deleted. She had also prayed to enter the name of her son i.e. the applicant in the waiting seniority list. Thereafter, representations were made by the applicant.

5. During the course of submission, learned counsel for the applicant has pointed out the Judgment of M.A.T., Principal Bench at Mumbai in O.A.No.503/2015, decided on 05.04.2016. As per the submission of learned counsel for the applicant, in the similar matter the relief was granted.

6. In the year 2001, the maximum age was 40 years to provide the employment on compassionate ground. Therefore, the respondents have deleted the name of applicant's mother from the waiting seniority list. As per the submission of learned counsel for the applicant, the respondents have wrongly entered name of the

mother of applicant. When her name was entered in the waiting seniority list she was already aged about 40 years. Therefore, entering the name of mother of applicant in the waiting seniority list itself was not legal and proper.

7. The appointment on compassionate ground is a scheme introduced by the State Government. The guidelines are given in the scheme itself. As per the guidelines, it was the duty of the concerned authority to guide the dependents of the deceased to apply for appointment on compassionate ground. The Hon'ble Bombay High Court, Bench at Aurangabad in Writ Petition No.439/2020 has held that it is for the department/authority to guide the dependents of the deceased family to apply for appointment on compassionate ground. But, it appears that respondents have wrongly entered the name of mother of applicant.

8. The learned P.O. has pointed out the Judgment of the Hon'ble Supreme Court in the case of **Steel Authority of India Limited Vs. Gouri Devi, 2022(4)Mh.L.J.,246**. "The Hon'ble Supreme Court has held that second application filed after a period of 18 years of the death of deceased employee is not within limitation. There is no need to make appointment on compassionate ground at the cost of interests of several others. The impugned Judgment and order

passed by the High Court and Tribunal directing appellant to re-consider case of second son of respondent is unsustainable.” In the present matter, the applicant had not applied for appointment on compassionate ground. The name of mother of applicant was wrongly entered by the respondents. It was for the respondents to see as to whether she was entitled for appointment on compassionate ground or not. As per the earlier G.R. of 2017, the age of compassionate appointment was 40 years. When the name of mother of applicant was entered in the list that time she was already aged about 40 years. Therefore, the name of applicant’s mother was wrongly entered in the waiting seniority list.

9. The Hon’ble Bombay High Court, Bench at Aurangabad in Writ Petition No.439/2020 has held that it is for the department to guide the family of dependents of the deceased to apply for appointment on compassionate ground. The respondent authority wrongly entered the name of mother of applicant. It was their duty to guide the family members of the deceased employee. Entering name of mother of applicant itself was wrong. Therefore, the application made by the applicant himself after attaining the age of majority within one year, cannot be said to be a second application. Hence, the cited Judgment by the side of respondent is not applicable in the case

in hand. The applicant after attaining the age of majority has applied to enter his name in the waiting seniority list and to provide the employment on compassionate ground. The respondents have rejected the claim of applicant on the ground that substitution is not provided. The Hon'ble Bombay High Court, Bench at Aurangabad **Dnyaneshwar Ramkishan Musane Vs. The State of Maharashtra & 2 Ors.** has held that the unreasonable restrictions imposed by the G.R. dated 20.05.2015 are required to be deleted. Therefore, the Government of Maharashtra was directed to delete the unreasonable restrictions imposed by G.R. dated 20.05.2015. The Hon'ble Bombay High Court, Bench at Aurangabad in the case of **Dnyaneshwar Ramkishan Musane Vs. The State of Maharashtra & 2 Ors. decided on 11.03.2020** has passed the following order:-

I) We hold that the restriction imposed by the Government Resolution dated 20.05.2015 that if name of one legal representative of deceased employee is in the waiting list of persons seeking appointment on compassionate ground, then that person cannot request for substitution of name of another legal representative of that deceased employee, is unjustified and it is directed that it be deleted.

II) We hold that the petitioner is entitled for consideration for appointment on compassionate ground with the Zilla Parishad, Parbhani.

III) The respondent no.2 - Chief Executive Officer is directed to include the name of the petitioner in the waiting list of persons seeking appointment on compassionate ground, substituting his name in place of his mother's name.

IV) The respondent no.2 - Chief Executive Officer is directed to consider the claim of the petitioner for appointment on compassionate ground on the post commensurate with his qualifications and treating his seniority as per the seniority of his mother.

V) Rule is made absolute in the above terms.

VI) In the circumstances, the parties to bear their own costs.

10. The C.A. and O.A.(St.) were dismissed on the ground of the delay. The applicant after attaining the age of majority applied for appointment on compassionate ground. It was the duty of respondent to guide the applicant properly and enter the name of applicant in the waiting seniority list. The respondents have rejected the claim of applicant without following the Judgment in the case of **Dnyaneshwar Ramkishan Musane Vs. The State of Maharashtra & 2 Ors.** The applicant has made several representations to the respondents, but it is not considered. Therefore, he has filed the O.A. before this Tribunal.

11. The O.A. was dismissed by this Tribunal on technical ground i.e. on the ground of delay. In the case of ***Collector Land***

Acquisition, Anantnag & Ano. Vs. Mst. Katiji & Ors., 1987 AIR 1353, 1987 SCR (2) 387, the Hon'ble Supreme Court has given guidelines as to how the delay is to be condoned. As per the Judgment of the Hon'ble Supreme Court in case of *Collector Land Acquisition, Anantnag & Ano. Vs. Mst. Katiji & Ors., 1987 AIR 1353, 1987 SCR (2) 387*, the liberal view is to be taken by the Court. The respondents have not provided any employment to any of the family members of the deceased. The respondents themselves have committed wrong by entering the name of mother of the applicant in the waiting seniority list. They have instead of guiding the deceased family members, they have wrongly entered the name of the mother of applicant. When the applicant applied, the respondents have relied on the G.R. of 2015, but in the case of *Dnyaneshwar Ramkishan Musane Vs. The State of Maharashtra & 2 Ors.*, the specific direction was given to substitute the name in place of the other name which was entered in the waiting seniority list. The unreasonable restrictions imposed by the G.R. dated 20.05.2015 was directed to be deleted, but the Government has not deleted the unreasonable restrictions imposed by G.R. dated 20.05.2015. Looking to the submission, the following order is passed.

ORDER

- 1) The Review Application is allowed.
- 2) The impugned order is hereby quash and set aside. The C.A. as well as O.A.(St.) is allowed.
- 3) The respondents are directed to enter the name of applicant in the waiting seniority list and provide him employment, as per rule if he is eligible.
- 4) No order as to costs.

(Justice M.G.Giratkar)
Vice Chairman

Dated – 21/09/2023
rsm.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : Raksha Shashikant Mankawde
Court Name : Court of Hon'ble Vice Chairman .
Judgment signed on : 21/09/2023.
Uploaded on : 26/09/2023.