

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO.456/2018

DISTRICT: - AHMEDNAGAR

Adhinta w/o. Shivaji Bharaskar,
Age : 38 years, Occu. : Household,
R/o. Apurva Complex, Bungalow No.3,
Jamkhed Road, Nagar,
Tq. & Dist. Ahmednagar.

...APPLICANT

V E R S U S

1) The State of Maharashtra,
Through its Principal Secretary,
Vocational Education and Training Department,
Mantralaya, Mumbai-32.

2) The Director,
Vocational Education and Training,
Maharashtra State, Mumbai.

3) The Joint Director,
Vocational Education and Training,
Regional Office, Trimbak Naka,
Old Agra Road, Nashik-2.

4) The Principal,
Industrial Training Institute,
Shrirampur, Tq. Shrirampur,
Dist. Ahmednagar.

...RESPONDENTS

APPEARANCE : Shri R.B.Temak, Advocate for applicant.
Shri V.R.Bhumkar Presenting Officer for
respondents.

CORAM : Justice M.T.Joshi, Vice-Chairman

DATE : 19th October, 2018

O R A L O R D E R
(Delivered on 19th Day of October, 2018)

1. Heard Shri R.B.Temak learned Advocate for the applicant and Shri V.R.Bhumkar learned Presenting Officer for respondents.

2. By the present original application, the applicant is seeking following relief:

"(B) By way of appropriate order, the impugned order dated 14.02.2012 passed by the Joint Director, Vocational Education and Training, thereby rejected the application filed by the present applicant for appointment to her on the basis compassionate, may kindly be quashed and set aside.

(C) By appropriate order or direction, the Respondents authorities may kindly be directed to appoint to present applicant on compassionate basis in any category as per her qualification."

3. The immediate facts on record would show that the deceased Shivaji Bharaskar was working as Crafts Instructor with the respondents. He died in harness, and therefore, the present applicant being wife of the deceased filed an application for appointment on compassionate

ground. Said application was rejected by the respondents vide communication dated 14th February, 2012 (Annexure A-1, paper book page 12). Reasoning of the said decision is that since the deceased was getting pay scale of Rs.5500-9000, according to Government Resolution dated 02-07-2002 as detailed in the said communication as the deceased was a group-B category employee, scheme of compassionate appointment would not be applicable in this case.

4. Learned Advocate for the applicant relies on the ratio laid down in the decisions rendered by the Hon'ble High Court as well as the Tribunal in Writ Petition No.5440/2009 decided on 05-02-2010 and Writ Petition No.2465/2016 & 2467/2016 decided on 02-03-2016 and O.A.No.594/2017 decided on 13-03-2018, copies of which are filed collectively and marked as documents "X" for identification. All these decisions would show that those are regarding the posts of Craft Instructors serving with the same respondents, wherein it is consistently held that the post of the deceased would not come under Group-B category.

5. Learned P.O., however, submits that in view of the clarificatory Government Resolution of the State of

Maharashtra dated 27th May, 2016 (paper book page 35), the post would fall within Group-B category. It is however to be noted that we are dealing with the case of 2012. In the circumstances, in view of the decisions of the Hon'ble High Court as well as the Tribunal as detailed supra, the original application will have to be allowed. Accordingly following order is passed:

ORDER

- (A) O.A. is allowed without any order as to costs.
- (B) Impugned decision dated 14-02-2012 of the Joint Director is hereby quashed and set aside.
- (C) Respondents are directed to allow the application of the present applicant for grant of appointment on compassionate ground as per rules and procedure by placing the applicant in waiting list with effect from the date of her application i.e. from 03-11-2011.

VICE-CHAIRMAN

YUK ORAL ORDER 19-10-2018 F