

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD

ORIGINAL APPLICATION NO.340/2014

DISTRICT: - PARBHANI

Gajanan Ragnathrao Jawale,
Age : 25 years, Occu. : Nil,
R/o. Behind Government Hospital,
Parbhani, Tq. & Dist. Parbhani. ...APPLICANT

V E R S U S

- 1) The State of Maharashtra,
Through the Deputy Director,
Health Services, Aurangabad.
- 2) The District Civil Surgeon,
District Government Hospital Parbhani,
Parbhani, Tq. & Dist. Parbhani. ...RESPONDENTS

APPEARANCE :Shri Vishal R. Sarosiya, Advocate holding
for Shri Ganesh Gadhe, Advocate for
Applicant.
:Shri N.U.Yadav, Presenting Officer for the
respondents.

CORAM : B. P. Patil, Member (J)

DATE : 4th October, 2018

O R A L O R D E R
(Delivered on 4th Day of October, 2018)

1. The applicant has challenged the
communication dated 04-10-2013 by which his
application for appointment on compassionate ground

has been rejected on the ground that the application has not been moved by him within one year from the date of death of his father Rangnath.

2. It is contention of the applicant that deceased Rangnath Jawale was his father. His father was working as Peon in Government Hospital, Parbhani. His father died on 15-03-2005 while in service leaving behind the applicant as his only heir. It is his contention that he was minor at the time of death of his father. It is his contention that his mother died before his father. It is his further contention that he has one more younger brother. They were not aware of the scheme of appointment on compassionate ground. After attaining majority, he moved an application with the respondents on 05-01-2011 seeking appointment on compassionate ground. Thereafter, respondent no.2 directed him to produce necessary documents and accordingly he produced documents and complied with the objections raised by the respondent no.2.

3. On 04-10-2013, respondent no.2 issued the impugned communication and informed the applicant that he is not entitled to get appointment on

compassionate ground as he had not moved the application within one year from the date of death of his father. It is contention of the applicant that the impugned communication is in violation of the provisions of the Circulars & G.Rs. He moved an application for appointment on compassionate ground immediately after attaining age of majority, and therefore, he challenged impugned order dated 04-10-2013 by filing the present O.A.

4. Respondent nos.1 and 2 have filed their affidavits in reply and resisted the contentions of the applicant. They have not disputed the fact that deceased Rangnath was serving as Peon in Civil Hospital, Parbhani in Class-4 post. He was father of the applicant. He died on 15-04-2005 while in service. They have not disputed the fact that mother of the applicant died before his father. They have also not disputed that the applicant has filed application seeking appointment on compassionate ground on 05-01-2011. It is their contention that as per the G.R. dated 22-08-2005, the application seeking appointment on compassionate ground has to be filed within one year from the date of death of the Government servant.

It is their contention that father of the applicant had died on 15-04-2005 and the applicant moved an application for compassionate appointment on 05-01-2011 i.e. beyond the period stipulated in the G.R. dated 22-08-2005. The application is not filed within one year from the date of death of deceased Rangnath, and therefore, the respondent no.2 has rightly rejected the application of the applicant. Therefore, they have justified the impugned order and prayed to reject the O.A.

5. I have heard Shri Vishal R. Sarosiya, Advocate holding for Shri Ganesh Gadhe, Advocate for Applicant and Shri N.U.Yadav, Presenting Officer for the respondents. Perused documents placed on record by the parties.

6. Learned Advocate for the applicant has submitted that father of the applicant died on 15-04-2005. At that time the applicant was minor. Date of birth of the applicant is 15-07-1990. After attaining age of majority, applicant filed application dated 05-01-2011 seeking appointment on compassionate ground with respondent no.2 but the

respondent no.2 has wrongly rejected his application on the ground that application was not moved within one year from the date of death of deceased Rangnath. He has submitted that respondent no.2 has not considered the fact that at the time death of deceased Rangnath, the applicant was minor and he moved application for appointment on compassionate ground after attaining age of majority. Therefore, he has prayed to quash the impugned order dated 04-10-2013 by allowing the O.A.

7. Learned Advocate for the applicant has placed reliance on the judgment of Hon'ble High Court of judicature of Bombay Bench at Nagpur in Writ Petition No.6322/2012 in the case of Ritesh s/o. Vilasrao Gotmare V/s. State of Maharashtra & Anr. decided on 01-07-2013. Reliance is also placed on judgment of the Hon'ble Bombay High Court Bench at Aurangabad in Writ Petition No.8047/2011 in case of Pravin Babasaheb Shekade V/s. State of Maharashtra & Ors. decided 17-01-2012 and decision of the Tribunal in O.A.No.948/2018 in case of Nanda d/o. Abhimanyu Pawar V/s. State of Maharashtra & Ors. decided on 17-07-2018.

8. Learned P.O. has submitted that the applicant has not moved an application for getting appointment on compassionate ground within one year from the date of death of his father, viz. Rangnath who had died on 15-03-2005. Therefore, respondent no.2 has rightly rejected the application dated 05-01-2011 in view of the provisions of G.R. dated 22-08-2005. He has submitted that there is no illegality in the impugned communication, and therefore, he has prayed to reject the O.A.

9. There is no dispute about the fact that the applicant is son of the deceased Government servant, viz. Rangnath Jawale who was working as Peon in Civil Hospital, Parbhani. Admittedly, Rangnath Jawale died on 15-03-2005 while in service leaving behind applicant and his brother as his legal heirs. Admittedly, the applicant and his brothers were minor at the time of death of Rangnath Jawale. Admittedly, date of birth of the applicant is 15-07-1990.

10. Considering various G.Rs. issued by the Government regarding appointment on compassionate ground, it reveals that the Government has introduced

the scheme for giving appointment to the heirs of deceased Government servant in the year 1976. Thereafter, in the year 1994 the Government has issued revised scheme in that regard. Thereafter, the Government issued G.Rs. and Circulars from time to time making amendment in the rule.

11. The Government has compiled different G.Rs. issued by it from time to time by issuing G.R. dated 21-09-2017. In view of the G.R. dated 11-09-1996 and Circular dated 05-02-2010, the legal heir of the deceased Government servant has to file an application within one year after attaining age of majority. The applicant was minor at the time of death of his father. Therefore, he has to file application for getting appointment on compassionate ground in view of the abovesaid G.Rs. and Circulars within one year from the date of attaining majority. Respondent no.2 ought to have considered the said G.Rs. while rejecting the application of the applicant but the respondent no.2 has not considered the said G.Rs. and Circulars and rejected application of the applicant on the ground that the application was not moved within one year from the date of death of his father. Respondent no.2

has not recorded its finding regarding maintainability of the application filed by the applicant after attaining age of majority. Therefore, impugned communication dated 04-10-2013 issued by respondent no.2 is not legal and proper. Respondent no.2 ought to have applied its mind and decided the application on the basis of G.R. dated 11-09-1996 and Circular dated 05-02-2010 but no finding has been recorded by the respondent no.2 in that regard. Therefore, the impugned order is not maintainable in the eye of law. Consequently, it deserves to be quashed and set aside by allowing the O.A.

12. I have gone through the decisions cited by the learned Advocate for the applicant. Facts of the present case and facts in the cases cited by the learned Advocate for the applicant are different. Therefore, those are not applicable to the present case.

13. In view of the above facts and circumstances of the case, O.A. is allowed. Impugned communication dated 04-10-2013 rejecting the application of the applicant is hereby quashed and set aside. Respondent no.2 is directed to consider application

dated 05-01-2011 filed by the applicant afresh on merit as per rules and in view of the G.R. dated 11-09-1996 and Circular dated 05-02-2010 within 3 months from the date of this order and communicate the decision in writing to the applicant. No order as to costs.

MEMBER (J)

Place: Aurangabad
Date : 04-10-2018.

YUK ORAL ORDER 04-10-2018 F