

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO.879/2016

DISTRICT: - BEED

Shaikh Mujib s/o. Shaikh Gafar,
Age : 21 years, Occu. : Nil,
R/o. Arphat Colony, Majalgaon,
Tq. Majalgaon, Dist. Beed.

...APPLICANT

V E R S U S

1) The State of Maharashtra,
Through its Secretary,
Water Resources Department,
Mantralaya, Mumbai-32.

2) The Superintending Engineer,
Jaikwadi Project Circle,
Aurangabad.

3) The Executive Engineer,
Majalgaon Canal Division No.7,
Gangakhed Dist. Parbhani.

...RESPONDENTS

APPEARANCE : Shri V.G.Pingle, Advocate for Applicant.

: Shri V.R.Bhumkar, Presenting Officer for
respondents.

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

DATE : 3rd December, 2018

O R A L O R D E R
(Delivered on 3rd Day of December, 2018)

1. The applicant has challenged the
communication dated 15-01-2013 received from the

respondent no.1 by which his claim for appointment on compassionate ground has been rejected by filing the present O.A. The applicant has also prayed that the respondents be directed to include his name in the waiting list of the eligible candidates to be appointed on compassionate ground.

2. Deceased Shaikh Gafar was father of the applicant. He was serving as Sweeper in Group-D cadre with the respondent no.2 and 3. He died on 11-04-2000 while in service. Noorjaha Begum wd/o Shaikh Gafar was wife of deceased Shaikh Gafar. She is mother of the applicant. The applicant was 6 years old at the time of death of his father Shaikh Gafar. After death of Shaikh Gafar his widow Noorjaha Begum filed an application with the respondents for getting appointment on compassionate ground. Name of the mother of the applicant Noorjaha Begum was enrolled in the waiting list of the eligible candidates to be appointed on compassionate ground but she has not received any employment.

3. On 11-05-2011 mother of the applicant applied with the respondent no.3 for inserting name of her son

i.e. the applicant, who became major, in the waiting list by deleting her name but the respondents had not taken any action on the same. Therefore, she again moved another application dated 01-08-2011 with the respondent no.3 and submitted necessary documents. Respondent no.2 by communication 10-12-2012 forwarded proposal to the respondent no.1 stating that as per the G.R. dated 22-08-2005, name of the mother of the applicant has been removed from the waiting list of the eligible candidates to be appointed on compassionate ground as she had crossed age of 40 years. The respondent no.2 has further mentioned that mother of the applicant could not get appointment on compassionate ground before completion of her age of 40 years, and therefore, they have forwarded proposal to include name of the applicant in the waiting list. It was further mentioned by respondent no.2 in the proposal that the applicant has to file application within one year after attaining age of majority. Respondent no.2 has further mentioned in the proposal that there is no provision to include name of another heir in place of name of heir whose name has been

already enrolled in the waiting list. Respondent no.1 by communication dated 15-01-2013 rejected the proposal sent by respondent no.2 dated 10-12-2012 on the ground that name of the mother of the applicant had been removed from the waiting list on completion of her age of 40 years and there is no provision to include name of another heir of deceased Government employee in place of the heir whose name had been recorded in the waiting list.

4. On receiving the communication from the respondent dated 15-01-2013, the applicant made another representation dated 22-05-2014 with the respondent no.1 and requested to consider his case and to include his name in the waiting list of the eligible candidates to be appointed on compassionate ground but the respondents have not taken decision on the same. Therefore, he has approached the Tribunal by filing the O.A. and prayed to quash the impugned communication dated 15-01-2013 issued by respondent no.1 and to direct the respondents to include his name in the waiting list of the eligible candidates to be appointed on compassionate ground.

5. Respondent no.1 resisted the contentions of the applicant by filing his affidavit in reply. It is not disputed by the respondent that Shaikh Gafar the father of the applicant was serving as Sweeper and he died on 11-04-200 while in service. He has not disputed the fact that widow of the deceased viz. Noorjaha Begum had applied with the respondent for getting appointment on compassionate ground after death of Shaikh Gafar. He has admitted the fact that name of Noorjaha Begum had been recorded in the waiting list of the eligible candidates to be appointed on compassionate ground. It is contended by him that after completion of age of 40 years by Noorjaha Begum, her name was removed/ deleted from the waiting list of the eligible candidates to be appointed on compassionate ground.

6. It is further contended by the respondent no.1 that after removal of the name of Noorjaha Begum from the waiting list, present applicant moved an application for including his name in her (mother of the applicant) place after 7 years. It is his contention that name of Noorjaha Begum has been deleted from the waiting list

in view of the G.R. dated 22-08-2005. There is no provision or guideline in the G.Rs. issued by the Government from time to time to include name of another heir in place of the person whose name is already enrolled in the waiting list, and therefore, respondent no.1 has rightly rejected the proposal forwarded by respondent no.2 as well as the application of the applicant. It is his contention that there is no illegality in the impugned order. Therefore, he has prayed to reject the O.A.

7. The applicant has filed affidavit in rejoinder and reiterated his earlier contentions raised in the O.A. and prayed to allow the O.A.

8. I have heard Shri V.G.Pingle Advocate for Applicant and Shri V.R.Bhumkar, Presenting Officer for the respondents. Perused the documents placed on record by the parties.

9. Admittedly, deceased Shaikh Gafar was serving as Sweeper with the respondents. He died on 11-04-2000 while in service leaving behind his widow Noorjaha Begum, the applicant and others as his legal heirs. Admittedly, after the death of Shaikh Gafar, his

widow Noorjaha Begum filed an application for getting appointment on compassionate ground with the respondents. On the basis of her application, her name was enrolled in the waiting list of the eligible candidates to be appointed on compassionate ground. There is not dispute about the fact that the applicant was minor at the time of death of his father. Admittedly, mother of the applicant i.e. Noorjaha Begum completed her age of 40 years in the year 1996. Therefore, her name has been removed from the waiting list of the eligible candidates to be appointed on compassionate ground in view of the G.R. dated 22-08-2005.

10. Thereafter, on 11-05-2011 and 01-08-2011 mother of the applicant moved applications with the respondents for recording name of the applicant in her place in the waiting list and appointing him on compassionate ground. Respondent no.2 forwarded the said applications to the respondent respondents mentioning provisions of the G.Rs. and the facts but the said proposal of the respondent no.2 dated 10-12-2012 had been rejected by the respondent no.1 by impugned communication dated 15-01-2013 on the

ground that there is no provision to record name of another heir in place of the heir of the deceased Government servant whose name has been already included in the list of candidates to be appointed on the compassionate ground.

11. Learned Advocate for the applicant has submitted that respondents had not informed the mother of the applicant or applicant regarding deletion of the name of the applicant's mother from the waiting list as per G.R. dated 22-08-2005, and therefore, the applicant could not able to file application for getting appointment on compassionate ground within stipulated time. He has submitted that the applicant after attaining age of majority moved the application through his mother but the respondents had not considered this aspect and wrongly rejected the application. He has submitted that scheme for appointment on compassionate ground has been introduced by the Government for giving immediate financial assistance to the family of the members of the Government servant who died while in service. This aspect had not been taken into consideration by the

respondents while rejecting the application of the applicant. Therefore, he has prayed to allow the O.A. and to quash and set aside the impugned order and to direct the respondents to consider application of the applicant afresh and record his name in the waiting list.

12. Learned P.O. has submitted that after death of Government servant, viz. Shaikh Gafar, his widow Noorjaha Begum had applied for getting appointment on compassionate ground. On the basis of her application, her name was recorded in the waiting list but thereafter it has been deleted in view of the G.R. dated 22-08-2005 as she completed age of 40 years long back in the year 1996. He has submitted that there is no provision in the scheme/G.R. issued by the Government from time to time to record name of another heir in place of the heir of the deceased whose name has already been recorded in the waiting list. Therefore, application filed by the mother of the applicant to record name of the applicant in her place had been rejected by respondent no.1 by the impugned order. He has further submitted that mother of the

applicant has moved the application after 7 years of deletion of her name from the waiting list. Therefore, on that ground also the application was not maintainable. He has submitted that since there is no provision in the scheme introduced by the Government, the application of the applicant was not considered and there is no illegality in the impugned order. Therefore, he has prayed to reject the O.A.

13. On perusal of the documents on record, it reveals that deceased Government servant Shaikh Gafar was serving as Sweeper with the respondents and he died while in service leaving behind his widow, applicant and others as his legal heirs. Applicant was minor at that time. Noorjaha Begum applied for getting appointment on compassionate ground. Considering her application, her name was included in the waiting list of the eligible candidates to be appointed on compassionate ground. Thereafter, Government issued G.R. dated 22-08-2005 which provides that name of the legal heir of the deceased Government employee whose name has been enrolled in the waiting list has to be removed after completion of age of 40 years. On the

basis of said G.R., name of Noorjaha Begum who is mother of the applicant, has been removed from the waiting list as she had completed her age of 40 years in the year 1996. Mother of the applicant has not challenged the said order. Seven years after deletion of her name from the waiting list, she moved applications dated 11-05-2011 and 01-08-2011 with the respondents for inserting name of the applicant in her place. The respondents considered the G.Rs. issued by the Government from time to time in that regard. There was no provision in the said G.Rs. to replace the name of the heir whose name is enrolled in the waiting list by the name of another heir. Therefore, the application of the mother of the applicant has been rejected by the impugned communication.

14. It is also material to note here that name of one of the eligible heirs i.e. mother of the applicant had been enrolled in the waiting list for getting appointment on compassionate ground after death of her husband Shaikh Gafar as per the provisions of G.Rs. then prevailing. By the G.R. dated 22-08-2005, the Government has decided to remove names of the heirs

of the deceased Government servant who have completed 40 years of age from the waiting list. Accordingly, name of Noorjaha Begum has been removed from the waiting list and she was informed accordingly. She has not challenged the said order and kept mum for a long period. 7 years after deletion of her name, she has moved the applications with the respondents. Therefore, the respondent no.1 has rightly rejected her application and refused to enroll name of the applicant in the waiting list in place of his mother whose name has already been deleted from the waiting list. I find no illegality in the said order.

15. In view of the above facts and circumstances of the case, I find no illegality in the impugned order, and therefore, no interference is called for in the order. There is no merit in the O.A. Consequently, the O.A. deserves to be dismissed.

16. In view of above discussion, O.A. stands dismissed without any order as to costs.

MEMBER (J)

Place: Aurangabad

Date : 03-12-2018.

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