

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO.132/2012

DISTRICT: NANDURBAR

Chandrakant s/o Maharu Suryavanshi,
Age : 18 years, Occ : Nil,
R/o. Plot No.57,
Kamnath Mahadeo Nagar,
Nandurbar, Tq. & Dist. Nandurbar.

..APPLICANT

V/s.

- 1] The State of Maharashtra,
(Copy to be served on CPO,
M.A.T. Bench at Aurangabad)
 - 2] The Divisional Jt. Director of Agriculture,
Nashik Division, Old Commissioner Office,
Nashik Road, Nashik.
 - 3] The District Agricultural Officer,
Office of District Agricultural Officer,
Nandurbar, Tq. & Dist. Nandurbar.
 - 4] The Taluka Agriculture Officer,
Navapur, Tq. Navapur,
Dist. Nandurbar.
 - 5] The Collector Nandurbar,
Tq. & Dist. Nandurbar (M.S.).
- ...RESPONDENTS

APPEARANCE: Heard Shri Rakesh N. Jain learned
Advocate holding for Shri D.S.Bagul
learned Advocate for the applicant.

Shri N.U.Yadav learned Presenting
Officer for respondents.

CORAM: Hon'ble Shri B. P. Patil, Member (J)

DATE : 20-04-2017

ORAL ORDER

Heard Shri Rakesh N. Jain learned Advocate holding for Shri D.S.Bagul learned Advocate for the applicant and Shri N.U.Yadav learned Presenting Officer for the respondents.

2. The applicant has prayed to quash communication dated 23-11-2011 issued by respondent no.3 and another communication dated 07-12-2011 issued by respondent no.4. Applicant has also prayed for his appointment on compassionate ground in Class IV category.

3. It is the contention of the applicant that his father died on 10-04-2006 in Railway accident when he was serving as Clerk in the office of Taluka Agriculture Office, Navapur. It is his contention that his mother Shobhabai filed application for appointment on compassionate

ground. As she had already completed age of 40 years her application was not entertained by the respondents. It is contention of the applicant that he was minor when his father died. His date of birth is 01-09-1993. He attained age of majority on 31-08-2011. Thereafter, he moved an application before the respondent no.3 on 10-01-2007 for appointing him on compassionate ground. Said application of the applicant is at page no.27. Respondent no.3 vide communication dated 23-11-2011 (page 32) informed respondent no.4 that the application of the applicant cannot be considered in view of the provisions of the G.Rs. dated 26-10-1994, 23-08-1996 and 22-08-2005 as there is no provision in those G.Rs. for changing nomination while claiming appointment on compassionate ground. On the basis of said letter, respondent no.4 informed the applicant by letter dated 07-12-2011 that the application was not considered in view of the above said G.Rs. The applicant has challenged the said order by filing this O.A.

4. Learned Advocate for the applicant has submitted that the respondents did not consider the G.R. dated 11-

09-1996 by which the applicant is entitled to apply for appointment on compassionate ground after attaining age of majority. He has submitted that the respondents have not considered the G.Rs. dated 26-10-1994, 23-08-1996 and 22-08-2005 with proper perspective. Name of his mother was not included in the waiting list and her earlier request was rejected on the ground that she had completed age of 40 years.

5. Learned P.O. submits that the respondents have correctly rejected application of the applicant in view of G.Rs. dated 26-10-1994, 23-08-1996 and 22-08-2005 but has fairly admitted the fact that the respondents have not considered the G.R. dated 11-09-1996 while deciding the application of the applicant. He has further admitted the fact that name of mother of the applicant was not included in the waiting list and her application was rejected on the ground that she had completed more than 40 years on the date of application for compassionate appointment.

6. G.Rs. dated 26-10-1994, 23-08-1996 and 22-08-2005 do not provide that name of legal heir cannot be

changed or substituted. Moreover, the said G.Rs. do not mention that eligible family members are not permitted to apply again if application of one of the family members of the deceased employee is rejected. Therefore, interpretation of the G.Rs. dated 26-10-1994, 23-08-1996 and 22-08-2005 made by the respondent nos.3 and 4 is not proper and correct. It is also material to note here that the respondent nos.3 and 4 have not considered G.R. dated 11-09-1996 while deciding the application of the applicant. By the said G.R. minor heirs of the deceased employee can apply for appointment under the said scheme on attaining age of 18 years within one year. Said G.R. came into force w.e.f. 01-03-1996. Applicant has filed application on 28-09-2011 (page 28) after completion of 18 years on 31-08-2011 within one year after attaining age of majority.

7. In view of the above said facts it seems that, respondents have not considered the said aspect and the abovesaid G.R. while deciding the case of the applicant, and consequently, wrongly issued communications dated 23-11-2011 and 07-12-2011, which are under challenge.

Respondents have not considered the claim of the applicant in view of the G.R. dated 11-09-1996. Therefore, impugned communications dated 23-11-2011 and 07-12-2011 are not legal. Hence, O.A. deserves to be allowed.

8. Consequently, communications dated 23-11-2011 and 07-12-2011 issued by respondent nos.3 and 4 are hereby quashed and set aside. Respondents are directed to consider the application of the applicant dated 28-09-2011 afresh in view of the G.R. dated 11-09-1996 and other relevant G.Rs., on its own merit as per rules. Respondents shall decide the same within 2 months from the date of receipt of this order. Accordingly O.A. stands disposed of with no order as to costs.

MEMBER (J)