

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO.740/2017**

**DISTRICT: - AURANGABAD**

-----  
Vishal s/o. Babaji Goje  
Age : 23 years, Occu. : Education,  
R/o. House No.517,  
Avishkar Colony,  
N-6, CIDCO, Aurangabad.

...APPLICANT

**V E R S U S**

- 1) The State of Maharashtra,  
Through the Secretary,  
Finance Department,  
Mantralaya, Mumbai-32.
- 2) The Director,  
Accounts & Treasury,  
Maharashtra State, Mumbai-21.
- 3) The Deputy Director,  
Accounts and Treasury,  
Aurangabad Division,  
"Lekha Kosh Bhawan",  
2<sup>nd</sup> Floor, Aurangabad-431001.
- 4) Senior Treasury Officer,  
Aurangabad, 1<sup>st</sup> Floor,  
Lekha Kosh Bhawan,  
Fajilpura, Aurangabad.

...RESPONDENTS

-----  
APPEARANCE :Shri M.B.Kolpe Advocate for Applicant.

:Shri D.R.Patil Presenting Officer for the  
respondents.

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

-----  
DATE : 21<sup>st</sup> August, 2018  
-----

**J U D G M E N T**  
**[Delivered on 21<sup>st</sup> day of August 2018]**

1. The applicant has challenged the communication dated 14-08-2017 issued by the Deputy Director of Accounts and Treasury, Aurangabad by filing the O.A. and prayed to quash and set aside the same. He has also prayed to issue the directions to respondent nos.2 to 4 to take steps to appoint him on compassionate ground in Class-III or Class-IV post within the stipulated time.

2. The father of the applicant viz. Shri Babaji Appa Goje was serving with the respondent no.4 as Clerk. On 11-01-2003 he died while in service. After his death, mother of the applicant had filed applications with the respondents seeking appointment on compassionate ground on 20-03-2003 and 11-05-2009. The Director of Industries, Aurangabad issued letter dated 08-07-2010 to the mother of the applicant and directed her to remain present in the office. Accordingly, she visited office of the Director of Industries, Aurangabad but he had not given appointment to her. By letter dated 13-01-2011, he informed the mother of the applicant and refused to give appointment on the ground that backlog of reservation

has to be filled. Therefore, she was not appointed on compassionate ground. Thereafter, mother of the applicant filed an application with the Hon'ble Lokayukta on 23-03-2010. Thereafter, she gave applications to Collector and respondents on 28-04-2012 and 20-07-2012 with a request to consider claim of her son i.e. the applicant.

3. It is contention of the applicant that he had also filed an application on 04-10-2012 with the respondent no.3 seeking appointment on compassionate ground. The respondent no.4 had issued letter to the Collector to include name of the applicant in the list of candidates claiming appointment on compassionate ground. By the letter dated 06-01-2014 Collector, Aurangabad informed the Hon'ble Lokayukta, Maharashtra State that the name of the applicant was included in the waiting list for appointment in Class-IV post and his name is at Sr. No.658. Thereafter, the respondent no.4 had requested the respondent no.3 by letter dated 11-04-2014 and informed that Hon'ble Lokayukta had given directions to take decision in respect of appointment of the applicant. The applicant persuaded the matter but no positive steps had

been taken to consider his claim. Thereafter, respondent no.4 by letters dated 27-07-2015 and 18-01-2016 informed him that he could not be given appointment. Thereafter, the applicant had submitted representation to the respondent no.4 on 12-01-2016 and had also given notice of hunger strike.

4. It is his contention that he is eligible to be appointed on the post of Class-III or Class-IV and he is possessing required qualification but the respondents intentionally avoided to appoint him on compassionate ground. Not only this but they have made discrimination by giving appointment to other candidates whose names were enrolled in the waiting list below the name of the applicant. It is contention of the applicant that since the year 2003 neither applicant's claim nor his mother's claim has been considered by the respondents. Therefore, the applicant approached this Tribunal by filing O.A.No.819/2016. The application was heard and thereafter it was disposed of with a direction to the applicant to make a representation with the respondent no.3. The respondent no.3 was also directed to decide the same within 4 months from the date of that order. In view of the direction given by this

Tribunal, the applicant had filed a representation with the respondent no.3. On 14-08-2017 the respondent no.3, after considering the representation dated 29-06-2017, rejected his claim on the ground that the applicant has secured 52.76% marks in the S.S.C. examination, and therefore, he is not qualified for appointment in view of the notification dated 02-12-2008. It has been further mentioned in the letter that the applicant shall approach to the Collector, Aurangabad so far as the waiting list of Group-D category is concerned. It is contention of the applicant that his representation has been wrongly rejected by the respondent no.3. Respondents have not considered the fact that the family of the applicant is suffering from financial crisis and they are being harassed by the respondents since the year 2003. Therefore, he approached this Tribunal by filing the present O.A. and prayed to quash the impugned communication dated 14-08-2017 and direct the respondents to take steps to appoint him on Class-III or Class-IV post within a stipulated time.

5. Respondent nos.1 to 4 have filed their affidavit in reply and resisted the contentions of the applicant. They have not disputed the fact that the deceased Babaji Goje

was father of the applicant and he was serving on the establishment of respondents as a Clerk. They have admitted the fact that Babaji Goje died on 11-01-2003 while in service. They have also admitted the fact that the mother of the applicant viz. Smt. Vijaya Babaji Goje submitted an application on 20-03-2003 for appointment on compassionate ground after death of her husband on 11-01-2003. It is their contention that the said application was forwarded to Collector, Aurangabad along with relevant documents vide letter dated 31-03-2003 by Senior Treasury Officer, Aurangabad. It is their contention that the G.A.D., Government of Maharashtra issued G.R. dated 22-08-2005 regarding reformation of the provisions and prevalent method of appointment on compassionate ground in the State of Maharashtra. As per the said G.R. department-wise list of the candidates for appointment on compassionate ground has to be maintained along with the common seniority list to be maintained by the respective District Collectors. It has been further mentioned in it that in the event no waiting list of candidates for appointment on compassionate ground is available, indent to fill up 5% post in the category of Group-C and Group-D posts

of the total vacant posts in that particular office has to be submitted to the respective District Collectors.

6. It is contention of the respondents that thereafter Finance Department of Government of Maharashtra by notification dated 02-12-2008 introduced new Recruitment Rules for Group-C cadre in the Directorate of Accounts and Treasuries. As per the said Recruitment Rules, the required minimum qualification for the post of Accounts Clerk was prescribed as passing of Secondary School Certificate Examination by acquiring minimum 55% marks. It is their contention that Smt. Vijaya Goje secured 53% marks in the SSC examination, and therefore, she was not eligible for appointment on the post of Group-C category. It is their contention that thereafter Smt. Vijaya Goje filed the application dated 01-05-2009 and requested Senior Treasury Officer, Aurangabad to give her appointment on compassionate ground. She has also requested by filing the application dated 05-05-2009 to the Senior Treasury Officer, Aurangabad that she is ready for appointment on the post of Group-D category.

7. On 17-06-2010 Smt. Vijaya Goje appeared before Joint Director of Industries, Aurangabad as her name was

recommended by the District Collector, Aurangabad but she was not given appointment on the ground that the District Collector, Aurangabad had not provided the list of candidates belonging to reserved category as it was mandatory to fill up posts of candidates from reserved class category and accordingly she was asked to communicate to the original office and office of the District Collector, Aurangabad by letter dated 13-01-2011. It is their contention that common list of candidates from Aurangabad District for appointment on compassionate ground was maintained by the District Collector, Aurangabad. Names of several candidates were enrolled in the said list. List was a big one, and therefore, due to inadequate educational qualification and non-availability of clear vacancies in Group-C category Smt. Vijaya Goje had not received appointment order till the year 2011.

8. It is further contention of the respondents that as per the G.R. dated 12-03-1997 powers regarding appointment on compassionate ground are vested with the respective District Collectors but by G.R. dated 22-08-2005, method regarding appointment on compassionate ground was revised by making provision of keeping waiting list by the



respective Collectors as well as the respective appointing authorities simultaneously. As Smt. Vijaya Goje was not eligible for appointment on compassionate ground in the Group-C category she filed applications dated 28-04-2012 and 20-07-2012 and requested the Joint Director, Accounts and Treasury, Aurangabad to give the appointment to her son namely Vishal Goje i.e. the applicant, in Group-C category as he is fulfilling the required criteria and conditions, as he became major.

9. Thereafter, the applicant had also filed the application dated 04-10-2012 with the Joint Director, Account and Treasury, Aurangabad seeking appointment on compassionate ground in Group-D category. The said representation of the applicant was forwarded to District Collector, Aurangabad on 16-10-2012. On 11-04-2014 District Treasury Officer, Aurangabad requested the Joint Director, Accounts and Treasuries, Aurangabad that as the Hon'ble Lokayukta vide letter dated 28-03-2014 informed that Senior Treasury Officer, Aurangabad is competent authority for giving appointment on the post of Group-D category, and therefore, it was necessary to take decision in that regard. The Senior Treasury Officer, Aurangabad has

further submitted that there are limitations to fill up posts on compassionate ground as the said posts have to be filled out of 10% of total vacancies in the concerned year as per G.R. dated 01-03-2014. It is their contention that if 10 posts with the District Treasury Office are vacant in a particular year for appointment on compassionate ground then appointment on one post in Group-D cadre can be made as per the scheme. Therefore, he sought direction/guidance in that regard by sending letter dated 11-04-2014. Because of the provisions made in the G.R. dated 01-03-014 no appointment can be given on compassionate ground without resorting to proper procedure, and therefore, the said fact was communicated to Smt. Vijaya Goje by Senior Treasury Officer, Aurangabad by letters dated 27-07-2015 and 18-01-2016.

10. Thereafter, the mother of the applicant again sent an application dated 12-01-2016 and requested the Senior Treasury Officer, Aurangabad to give appointment to her son in Group-C or Group-D category else she will proceed on hunger strike. Copy of the letter was given to the Collector, Aurangabad by Smt. Vijaya Goje. By the communication dated 27-01-2016 the District Collector,

Aurangabad informed her that in view of the provisions of G.R. dated 01-03-2014 the limitation prescribed therein has been extended for the period of 2 years by the G.R. dated 28-10-2015 and the period is extended up to 28-02-2017. Therefore, the applicant cannot be given appointment on compassionate ground either on Group-C or Group-D post.

11. It is contention of the respondents that the applicant is not satisfying the educational criteria required for giving appointment on the post of Group-C category. But other candidates whose names have been mentioned by the applicant in his application have satisfied the required parameters of the recruitment, and therefore, they were given appointment on the post of Group-C category. Therefore, no question of making discrimination arises. It is their contention that they had given appointment to those persons by following proper procedure as per rules. It is their contention that they have not considered the claim of the applicant as well as his mother as no post in Group-D category is available on their establishment. It is their contention that only 4 posts are vacant in Group-D category, and therefore, same cannot be filled from the

candidates eligible to get appointment on compassionate ground in view of the G.R. dated 01-03-2014.

12. It is their contention that as per the directions given by this Tribunal in O.A.No.819/2017, the applicant submitted the representation to the Joint Director, Accounts and Treasuries, Aurangabad on 29-06-2017, which was forwarded to Director of Accounts and Treasuries, Mumbai for appropriate order but the Director of Accounts and Treasuries, Mumbai by letter dated 21-07-2017 rejected the representation of the applicant stating reasons therein. It is their contention that there is no illegality in the said order, and therefore, they supported the impugned order. Therefore, they have prayed to reject the O.A.

13. I have heard Shri M.B.Kolpe Advocate for Applicant and Shri D.R.Patil Presenting Officer for respondents. Perused documents produced on record by the parties.

14. Admittedly, deceased Babaji Goje was father of the applicant and he was serving as Clerk on the establishment of the respondent no.4. He died on 11-01-2003 while in service. Admittedly, mother of the applicant, viz. Smt.

Vijaya Goje filed the application dated 20-03-2003 after the death of the father of the applicant seeking appointment on compassionate ground. Thereafter, she moved another application dated 11-05-2009. Her name had been recorded in the waiting list of the eligible candidates to be appointed on compassionate ground by the Collector, Aurangabad. Admittedly, as per the directions of the Collector, Aurangabad, the Director of Industries, Aurangabad issued letter to the mother of the applicant dated 08-07-2010 to remain present before him. Accordingly, she remained present before him but she was not appointed on compassionate ground on the ground that backlog of reservation has to be filled. Admittedly, mother of the applicant thereafter filed the application with the Hon'ble Lokayukta on 23-03-2010, and thereafter again she filed another application dated 28-04-2012 with the respondents and Collector, Aurangabad for considering claim of the applicant i.e. her son. Admittedly, Collector, Aurangabad included name of the applicant in the list of the candidates seeking appointment on compassionate ground. Name of the applicant has been maintained at Sr.No.658. Said fact had been informed to the Hon'ble

Lokayukta by the Collector, Aurangabad by letter dated 06-01-2014.

15. Admittedly, as request of the applicant and his mother had not been considered by the respondents, the applicant approached this Tribunal by filing O.A.No.819/2016. Said O.A. was disposed of with a direction to the applicant to make representation with the respondent no.3 and the respondent no.3 was also directed to decide the same within 4 months. Accordingly, the applicant filed the representation dated 29-06-2017 with the respondent no.3 along with necessary documents. The respondent no.3 had rejected the said representation and directed the applicant to approach the Collector for getting appointment on compassionate ground on the post in the Group-D category by the communications dated 31-07-2017 and 14-08-2017. It has been further informed to the applicant that he was not eligible to be appointed on the post of Group-C category as he does not possess the required educational qualification.

16. Learned Advocate for the applicant has submitted that after enrolment of the name of the applicant in the waiting list, the respondents had not given appointment to

him, and therefore, he was compelled to file O.A.No.819/2016 before the Tribunal. He has submitted that the said O.A. came to be disposed of on 16-06-2017 with a direction to the applicant to make representation with the respondent no.3 and respondent no.3 was also directed to decide it within 4 months. He has submitted that accordingly the applicant had made the representation dated 29-06-2017 with the respondent no.3 but the respondent no.3 rejected the same by the impugned communication dated 14-08-2017. He has submitted that the respondent no.3 has not considered the provisions of G.Rs. and has not considered the case of the applicant for appointment on the post of Group-C or Group-D. He has submitted that other candidates/persons namely Manoj Etisthake, Manisha Bankar, Vishal Kulkarni and Rohit Kulkarni whose names were below the name of the applicant in the waiting list had received appointment but the respondent no.3 has not considered the case of the applicant and thereby made discrimination. He has submitted that posts in the cadre of Group-D are vacant on the establishment of respondent no.3 but the respondent no.3 has not considered the name of the applicant for appointing him on the said vacant post and wrongly

rejected his claim and directed him to approach to the Collector, Aurangabad for seeking appointment on the Group-D post by the impugned communication dated 14-08-2017. He has submitted that the impugned communication dated 14-08-2017 is against the provisions of several G.Rs. issued under the said scheme, and therefore, it requires to be quashed and set aside by allowing the O.A.

17. Learned P.O. has submitted that initially name of the mother of the applicant had been recorded in the waiting list of the candidates eligible for appointment on the compassionate ground but thereafter the name of the applicant had been enrolled in the waiting list in the year 2014. He has submitted that the common waiting list has been maintained by the Collector while each department maintains independent list of candidates who are seeking appointment on compassionate ground. He has submitted that as per the G.R. dated 01-03-2014 out of the total vacancies in the particular department 10% posts have to be filled by giving appointment to eligible candidates on compassionate ground. He has submitted that if 10 posts are vacant in a particular department, then 1 post can be



considered for appointment on compassionate ground. He has submitted that on the establishment of respondent no.3 there are only 4 vacancies in the Group-D category, and therefore, the applicant cannot be considered for appointment on such posts as above said condition mentioned in the aforesaid G.R. cannot be fulfilled. The applicant was informed accordingly to approach the Collector who maintains common waiting list of the candidates eligible for appointment on compassionate ground. He has submitted that the Collector can consider the case of the applicant as per his turn and recommend his name to the concerned department in which the vacancy arises. He has submitted that the respondent no.3 has rightly communicated the said fact and provisions of G.R.s to the applicant by the impugned communication dated 14-08-2017 and there is no illegality in the same.

18. Learned P.O. has further submitted that the applicant is claiming appointment on the Group-C post but he has not fulfilled the required eligibility criteria as provided under the Treasury and Accounts Group-C Services Recruitment Rules, 2008 published in the Government

Gazette on 02-12-2008. He has submitted that as per the said rules, the candidates must secure 55% marks in SSC examination for the appointment on the post of Accounts Clerk. He has argued that the applicant has secured only 52.76% marks in SSC Examination. Not only this but he has not passed the HSC examination with the Commerce subject, and therefore, he is not eligible to be appointed on Group-C post. Therefore, his case was not considered. He has submitted that other persons who have been appointed on compassionate ground have satisfied the required eligibility criteria, and therefore, they have been appointed on the Group-C post and no discrimination has been made by respondent no.3. Therefore, he supported the impugned communication and prayed to reject the O.A.

19. On perusal of the record, it reveals that as per the directions given by this Tribunal in O.A.No.819/2016 on 16-06-2017, the applicant has moved fresh representation on 29-06-2017 and respondent no.3 had decided the said representation and informed the applicant accordingly by the impugned communication dated 14-08-2017 that he was not eligible for appointment on Group-C post as he does not possess the required eligibility criteria as per the

Treasury and Accounts Group-C Services Recruitment Rules, 2008. Respondent no.3 has informed the applicant that as vacant posts available with the establishment are not sufficient to give him appointment under the Scheme of appointment on compassionate ground in view of the G.Rs. dated 22-08-2005, 05-02-2010 and 28-10-2005, and therefore, he directed the applicant to approach the Collector in that regard. On perusal of the Treasury and Accounts Group-C Services Recruitment Rules, 2008, it is crystal clear that for the appointment on the post of Accounts Clerk one has to pass SSC examination and he has to secure minimum 55% marks in the examination. It also provides that the preference should be given to the candidates who pass HSC with Commerce stream or degree in Commerce etc. The applicant has secured 52.76% marks in SSC examination, and therefore, he was not satisfying the eligibility criteria as required under the Rules for giving appointment on Group-C post, and therefore, the appointment was not given to him by the respondents on that ground. There is no illegality in the order of the respondent no.3 in that regard. The appointment to the applicant has been rejected

on the ground that he was not fulfilling the required criteria for appointment on Group-C post.

20. So far as the appointment on Group-D post is concerned, it is material to note here that only 4 posts are vacant on the establishment of respondent no.3. In view of the G.R. dated 01-03-2014, 10% of the total vacant posts on the establishment of a particular department can be filled by appointing the candidate on the waiting list of the eligible candidates to be appointed on compassionate ground. As no post was available to consider the case of the applicant under the scheme for appointment on compassionate ground, respondent no.3 has not given appointment to the applicant and he has rightly directed the applicant to approach the Collector who maintains the common waiting list for getting appointment on Group-D post as per the available vacancies and the said fact has been informed to the applicant by respondent no.3 by communication dated 14-08-2017. Therefore, in my view, there is no illegality in the impugned communication dated 14-08-2017 issued by the respondent no.3. Respondent no.3 has rightly rejected the claim of the applicant in view of the provisions of G.Rs. dated 22-08-2005, 05-02-2010

and 28-10-2005. Therefore, no interference is called in the same.

21. In view of the above said discussion, in my opinion, there is no illegality on the part of the respondents while rejecting application of the applicant. Respondents have rightly rejected the application of the applicant for appointment on compassionate ground. Therefore, I do not find merit in the contentions raised by the applicant. Consequently, O.A. deserves to be dismissed.

22. In view of the above discussion, O.A. stands dismissed with no order as to costs.

**(B. P. PATIL)**  
**MEMBER (J)**

**Place : Aurangabad**  
**Date : 21-08-2018.**