

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI,
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 470 OF 2022

DISTRICT : PARBHANI

Prasad S/o Diliprao Mule,)
Age : 26 years, Occu. : Nil,)
R/o. Adarsha Nagar, Pathri, Tq. Pathri,)
Dist. Parbhani.).... **APPLICANT**

V E R S U S

1. **The State of Maharashtra,**)
Through it's Secretary,)
Water Resource Department,)
Mantralaya, Mumbai-32.)
2. **The Superintending Engineer &**)
Administrator, CADA, Aurangabad.)
3. **The Executive Engineer,**)
Jaikwadi Irrigation Division No. 2,)
Parbhani.)... **RESPONDENTS**

APPEARANCE : Shri A.D. Gadekar, Counsel for Applicant.

: Shri A.P. Basarkar, Presenting Officer for
respondent authorities.

: Shri S.B. Mene, counsel for respondent No. 3.

CORAM : **Hon'ble Justice Shri V.K. Jadhav, Member (J)**

DATE : **13.06.2024**

O R A L - O R D E R

1. Heard Shri A.D. Gadekar, learned counsel appearing for the applicant, Shri A.P. Basarkar, learned Presenting Officer appearing for respondent authorities and Shri S.B. Mene, learned counsel for respondent No. 3.

2. The present Original Application is disposed of finally with the consent of both the parties at the admission stage.

3. By filing the present Original Application, the applicant is seeking quashing and setting aside the communication dated 25.02.2011 (Annexure A-5) and further seeking direction to respondent Nos. 1 and 2 to consider the claim of the applicant for appointment on compassionate ground on Class-III post in terms of his application dated 13.01.2011 (Annexure A-4 collectively).

4. Brief facts as stated by the applicant giving rise to the Original Application are as follows :-

(i) The father of the applicant viz. Diliprao Shahaji Mule while serving on Class-III post in the office of respondent No. 3 died on 02.09.2006. On 12.06.2007, the mother of the applicant had filed an application to respondent No. 3 requesting therein to consider her claim on compassionate ground. Though the application was forwarded by respondent No. 3 to respondent No. 2 for further action, nothing was communicated to the mother of the applicant. The name of the applicant's mother was not entered in the waiting list of the eligible candidates of the deceased

employee for giving appointment on compassionate ground. Consequently, in the month of December, 2007 mother of the applicant has submitted an application to respondent No. 3 requested therein that her son, who is minor at that time, may be considered for compassionate appointment.

(ii) It is the further case of the applicant that the applicant has attained the age of majority on 18.12.2010 and he has submitted an application on 13.01.2011 (Annexure A-4 collectively) i.e. within 25 days on attaining the age of majority. By impugned order dated 25.02.2011 (Annexure A-5), the respondent No. 3 has rejected the said application. Hence, the present Original Application.

5. Learned counsel for the applicant submits that the applicant has nowhere stated in his application dated 13.01.2011 (Annexure A-4 collectively) that the seniority in the waiting list shall be considered from the date by which his mother has filed an application for compassionate appointment. Learned counsel submits that since the name of the mother of the applicant was never entered in the waiting list of the eligible candidates maintained by the department for giving compassionate appointment, there is no question of any

substitution. Learned counsel submits that further the respondent No. 3 has rejected the application of the applicant incorrectly on the ground that the applicant has not submitted application within one year from the death of his father. Learned counsel submits that the respondent No. 3 has ignored that at the time of death of father of the applicant, he was minor and the respondent No. 3 has also ignored the G.Rs. dated 11.09.1996 and 22.08.2005 (Annexure A-6 collectively), wherein it has been specifically prescribed that the minor member of the family of the deceased employee shall file an application seeking appointment on compassionate ground within one year after attaining the age of majority.

6. Shri S.B. Mene, learned counsel for respondent No. 3 on the basis of affidavit in reply submits that in view of G.R. dated 22.08.2005, the minor heir of deceased Government servant has to apply for appointment on compassionate ground within one year after becoming major. However, the applicant has not applied within the stipulated period and hence the respondent has rightly rejected the claim of the applicant. Learned counsel submits that there is no substance in the present Original Application and the same is liable to be dismissed.

7. Learned Presenting Officer has adopted the submissions made on behalf of respondent No. 3.

8. The present Original Application deserves to be allowed. Though the mother of the applicant has filed an application for compassionate appointment within stipulated period after the death of her husband, however, for one and another reason, the department has not considered the same and in the year 2007 itself, the mother of the applicant has submitted an application with the department requesting therein that her minor son may be considered for appointment on compassionate ground after attaining the age of majority. In view of the same, I agree with the submissions made on behalf of the applicant that there is no question of substitution, as the name of the applicant's mother never entered in the waiting list of the eligible candidates maintained by the department for compassionate appointment.

9. As per the Leaving Certificate issued by the Maharashtra Institute of Technology, Aurangabad placed on record by the applicant, the date of birth of the applicant is 18.12.1992, which is not disputed by the other side. On perusal of the Annexure A-4 Collectively, it appears that the applicant

has submitted an application on 13.01.2011 i.e. within 25 days from the date of attaining the age of majority. In terms of G.R. dated 11.09.1996, the minor heir of the deceased Government employee can file an application for compassionate appointment within one year after attaining the age of majority. It is pertinent to note here that in the impugned order dated 25.02.2011 (Annexure A-5) the respondent No. 3 has incorrectly stated that the applicant should have submitted an application within one year from the death of his father i.e. deceased Government employee. It is contrary to the G.R. dated 11.09.1196.

10. In view of above discussions, the present Original Application deserves to be allowed and the respondents are necessary to be directed to enlist the name of the applicant in the waiting list of the eligible candidates maintained for compassionate appointment and the seniority shall be counted from the date on which the applicant has submitted his application i.e. 13.01.2011. Hence, the following order :-

ORDER

- (i) The Original Application is hereby partly allowed.

- (ii) The respondents are hereby directed to enlist the applicant in the wait list of the eligible candidates maintained for compassionate appointment and the seniority of the applicant shall be counted from the date of filing of his application dated 13.01.2011.
- (iii) The respondents are hereby directed to give appointment to the applicant on compassionate ground in Class-III post in place of his father viz. Diliprao Shahaji Mule subject to vacancy of the posts within the period of three months as far as possible from the date of this order.
- (iv) In the circumstances, there shall be no order as to costs.
- (v) The Original Application is accordingly disposed of.

PLACE : Aurangabad.
DATE : 13.06.2024

(Justice V.K. Jadhav)
Member (J)