

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 580 OF 2018
(Subject :- Compassionate Appointment)**

DISTRICT:- JALNA

Amol S/o Ramkisan Sakruskar,)
Age : 27 years, Occu: Nil,)
At post Antarawali, Taluka Gansawangi,)
District Jalna.)... **APPLICANT**

V E R S U S

- 1. The State of Maharashtra,**)
Through its Secretary,)
Water Resources Department,)
Mantralaya, Mumbai.)
- 2. Superintending Engineer and**)
Administrator, Command Area)
Development Authority,)
Near Gajanan Mandir, Garkheda,)
Aurangabad.)
- 3. Executive Engineer,**)
Jayakwadi Irrigation Division,)
Nathnagar (N), Paithan,)
District Aurangabad.)
- 4. Sub-Divisional Officer,**)
Jayakwadi Irrigation Sub-Division No-3))
Teerthpuri, Taluka Ghansawangi,)
District Jalna.)

....RESPONDENTS

APPEARANCE : Shri H.A. Joshi, learned counsel for the
applicant.
:
Shri D.M. Hange, learned Presenting
Officer for the respondent authorities.
:
Shri S.B. Patil, learned counsel for
respondent Nos. 2 to 4.

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

RESERVED ON : 12.08.2024.

PRONOUNCED ON : 23.09.2024.

O R D E R

Heard Shri H.A. Joshi, learned counsel for the applicant, Shri D.M. Hange, learned Presenting Officer for the respondent authorities and Shri S.B. Patil, learned counsel for respondent Nos. 2 to 4.

2. By filing this Original Application the applicant is seeking direction to the respondents to include the name of the applicant in the seniority list maintained for the purpose of compassionate appointment and also seeking quashing and setting aside the communication dated 27.04.2018 issued by the respondent No.2.

3. Brief facts giving rise to this Original Application are as follows:-

(i) The father of the applicant i.e. Ramkisan Asaram Sakruskar was in service of respondent No.1 department as a

Wireless Operator. On 24.10.2006 he died in harness. The copy of death certificate is marked as Annexure 'A-1'.

(ii) On 17.10.2007 (Annexure 'A-2') the mother of the applicant made an application to respondent No. 3 requesting to consider the applicant for appointment on compassionate ground. The applicant, however, being a minor on the date of filing of the said application dated 17.10.2007, in view of letter dated 14.11.2008 (Annexure 'A-3'), the proposal for appointment on compassionate ground was returned.

(iii) The applicant further submits that when he had been to the office of respondent No.4 to understand as to what steps are required to be taken, he was asked to write an application intimating the date of attaining majority with further request to consider his claim on attaining the age of majority. The applicant accordingly intimated his date of attaining the majority i.e. 12.12.2008 by application dated 14.11.2008 (Annexure 'A-3'). By letter dated 14.11.2008 itself the office of respondent No.4 forwarded the said proposal to the office of respondent No.3 (Annexure 'A-4'). The respondent No.3 however informed to the applicant to submit the certificate of heirship issued by the competent civil court. The applicant

after securing the certificate of heirship, submitted along with application dated 27.12.2010 requesting therein to include his name in the seniority list maintained for the purpose of making appointment on compassionate ground. The said application dated 27.12.2010 is marked as Annexure 'A-5'.

(iv) The applicant further contends that thereafter there was no correspondence by the respondents even though the applicant has submitted various representations. The applicant, however, came to be served with internal communication dated 01.07.2016 written by the respondent No.2 addressed to Secretary of respondent No.1. The respondent No.2 is of the opinion that the delay of 02 years and 12 months caused in applying for compassionate appointment. However, though the respondent No.2 has condoned the delay, the same has not been considered by the Government by assigning the reason that the provisions of G.R. dated 20.05.2015 cannot be made applicable to the case of the applicant retrospectively. The applicant being aggrieved by the order dated 18.04.2018 so also letter dated 27.04.2018 issued by the respondent No.2 filed this Original Application.

4. Learned counsel for the applicant submits that it appears from the contents of the letter dated 08.08.2012 that the office of respondent No.3 was in dilemma to reckon the date of seniority of applicant. The respondents were supposed to take further action or pass the order on the proposal of applicant. However, no decision was taken.

5. Learned counsel for the applicant submits that the mother of the applicant was an illiterate lady and the applicant was just 16 years old at the time of death of his father. The applicant and his mother were not informed about the scheme of compassionate appointment in detail by the respondents though it is incumbent upon them. Consequently the applicant has submitted the application for compassionate appointment before one month of attaining the age of majority. Even at that time he was not informed that after attaining the age of majority the applicant is required to file an application for compassionate appointment in format along with all the requisite documents within one year. In fact the respondent Nos. 2 to 4 are responsible for depriving the applicant from submitting the application

within time as prescribed. Learned counsel for the applicant submits that the Original Application deserves to be allowed.

6. Learned counsel appearing for respondent Nos. 2 to 4 on the basis of affidavit in reply filed on behalf of respondent Nos. 2 to 4 submits that the applicant has completed 18 years of age on 15.12.2008. As per the record the applicant submitted his complete proposal to the respondents' office on 08.08.2012 which is not in time and there is a delay of 2 years, 7 months and 23 days. In terms of G.R. dated 22.08.2005 the applicant has to make the application for compassionate appointment within one year after attaining the age of majority. But the applicant has made an application after 2 years, 7 months and 23 days. As per the guidelines in terms of G.R. dated 22.08.2005 the applicant is not eligible to be appointed on compassionate ground.

7. Learned counsel appearing for respondent Nos. 2 to 4 submits that the office of respondents has forwarded the proposal of the applicant to the office of respondent No.1 for further guidelines in terms of the new G.R. by way of letter dated 12.07.2016. On 18.04.2018 the respondent No.1

rejected the proposal of the applicant on the ground that the G.R. dated 20.05.2015 is not applicable to the case of the applicant. Learned P.O. submits that the father of the applicant died on 24.10.2006 and the applicant had to make an application after attaining the age of majority within one year i.e. prior to 15.12.2009. But the applicant has made the application on 17.12.2010 which is incomplete. Thus the application is beyond the time limit period. The G.R. dated 22.08.2005 was in existence and the same is applicable to the case of the applicant. The applicant is however seeking benefit of G.R. dated 20.05.2015 which is not applicable retrospectively. Therefore, the proposal of the applicant was rightly rejected by the respondent No.1. There is no substance in the Original Application and the same is liable to be dismissed.

8. On the basis of affidavit in rejoinder filed by applicant learned counsel for the applicant submits that the respondent Nos.2 to 4 have miserably failed in complying with the mandate of informing the applicant or his family members about the scheme of compassionate appointment. Further, the respondent No.1 is also expected to consider the cause for

delay whether attributable to the applicant alone or otherwise.

9. Having gone through carefully the G.R. dated 23.08.1996 so also G.R. dated 11.09.1996 and G.R. dated 05.02.2010 it is clear that the eligible heirs of the deceased Government employee can apply for compassionate appointment within one year after attaining the age of 18 years. Furthermore it is also incumbent upon the concerned competent authority of the department to explain in detail the scheme of compassionate to the family members of deceased 15 days after the death of such a Government employee or at the time of submitting the pension proposal.

10. In the instant case admittedly the applicant attained the age of 18 years on 12.12.2008. However, the applicant on 14.11.2008 (Annexure 'A-3') has submitted an application for compassionate appointment. Even before that on 17.10.2007 the mother of the applicant has submitted the application for compassionate appointment for her son i.e. the present applicant. However, it was returned for the reason that the applicant was less than 18 years of age. Though there are two applications, first application dated

17.10.2007 (Annexure 'A-2') submitted by the mother of the applicant and second application dated 14.11.2008 (Annexure 'A-3') submitted by the applicant himself before attaining the age of majority i.e. 18 years, however, it is evident from the aforesaid two applications filed by the applicant and his mother that they were not informed about the scheme of compassionate appointment nor the respondent Nos. 2 to 4 have explained to them the scheme of compassionate appointment in its entirety. Had it been explained to the applicant and his family by the respondent Nos. 2 to 4, the applicant and his mother would not have submitted the said applications dated 17.10.2007 (Annexure 'A-2') and 14.11.2008 (Annexure 'A-3') respectively.

11. In the backdrop of the aforesaid factual aspects it is the say of the respondent authorities that the applicant has filed the complete application on 27.12.2010 after two years on attaining the age of majority. The applicant and his mother were never informed by the respondent authorities that it is mandatory on their part to submit the application in format along with all the requisite documents within one year on attaining the age of majority. Consequently, the delay, if

any, is not attributable to the applicant nor his application seeking compassionate appointment can be rejected solely on this ground. The impugned order is thus liable to be quashed and set aside. Hence, the following order:-

ORDER

- (i) The Original Application is hereby partly allowed.
- (ii) The impugned communication dated 27.04.2018 issued by the respondent No.2 is hereby quashed and set aside.
- (iii) The respondents are directed to include the name of the applicant in the seniority list maintained for the purpose of compassionate appointment from the date of 27.12.2010 within a period of four weeks 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.

MEMBER (J)

Place:-Aurangabad

Date : 23.09.2024

SAS O.A. 580/2018(S.B.) Compassionate Appointment