

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 597 OF 2020

(Subject:- Compassionate Appointment)

DISTRICT:-AHMEDNAGAR

Amol S/o Sopan Shidore,)
Age – 27 Years, Occ-Nil,)
R/o. Somthane Khurd, Mandve,)
Taluka- Pathardi, District- Ahmednagar.) **APPLICANT**

V E R S U S

- 1. The State of Maharashtra**)
Through Secretary,)
Agricultural and Marketing Department)
Mantralaya, Mumbai-32.)
- 2. The Divisional Deputy Director**)
of Agricultural, Pune Division,)
Pune-411005.)
- 3. The District Superintendent**)
Agricultural Officer, Ahmednagar.)
- 4. The Taluka Agricultural Officer,**)
Pathardi, Tal. Pathardi,)
Dist. Ahmednagar) **RESPONDENTS**

APPEARANCE : Shri Sandip R. Andhale, learned
counsel for the applicant.
: Smt. R.S. Deshmukh, learned
Presenting Officer for the respondent
authorities.

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

DATE : **10.06.2024.**

ORAL ORDER

Heard Shri Sandip R. Andhale, learned counsel for the applicant and Smt. R.S. Deshmukh, learned Presenting Officer for the respondent authorities finally with consent at the admission stage.

2. By filing this Original Application the applicant is seeking direction to the respondents to appoint the applicant on compassionate ground in Class-III/C or Class-IV/D category and to decide the representations filed by the applicant dated 02.01.2020 and 19.09.2020 in this regard.

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

(i) The father of the applicant was serving as Agricultural Assistant at Taluka Agricultural Office, Pathardi and while in service died on 03.12.1999. He was left behind by his wife Smt. Mangal, two sons namely Ajay and Amol and one daughter namely Ashwini.

(ii) The applicant further contends that after the death of the father, the family of the applicant has been facing the financial crisis as nobody was the earning member in the family. The wife of the deceased employee namely Mangal is

illiterate lady and two sons and one daughter were minor at that time. Even the mother of the applicant has received the pension belatedly. She had to make several representations for that purpose.

(iii) It is the further case of the applicant that after the death of the father, the mother of the applicant has filed an application for appointment on compassionate ground for her son. She has specifically stated in the said application that the applicant was minor and after completion of his education, he would file application along with all the relevant documents. The mother of the applicant had filed the said application on 12.01.2000 (Annexure 'A-3'). Thereafter, the Taluka Agricultural Officer has informed about the same to the Divisional Deputy Director of Agricultural Department, Pune vide communication dated 12.01.2000. It is the further case of the applicant that in the month of March-2008, the applicant has completed 10th standard and in the year 2010, he has passed 12th standard examination. Thereafter, the applicant has successfully completed his graduation in B.SC. Agricultural in the year, 2014.

(iv) It is the further case of the applicant that on 19.11.2014, the applicant has filed an application before the

Taluka Agricultural Officer, Pathardi along with all required documents for appointment on compassionate ground. Even the other family members have also given no objection for appointment of the applicant on compassionate ground. The Sub-Divisional Agricultural Officer, Ahmednagar has forwarded the said proposal to the District Superintendent of Agricultural Officer, Ahmednagar by letter dated 19.12.2014 (Annexure 'A-7') and in turn, the District Superintendent of Agricultural Officer, Ahmednagar has forwarded the said proposal to the Divisional Deputy Director of Agricultural, Pune by letter dated 26.12.2014 (Annexure 'A-8'). The Divisional Deputy Director of Agricultural, Pune by communication dated 09.03.2015 (Annexure 'A-9') has rejected the proposal of the applicant on the ground that in terms of the Government Resolution dated 26.10.1996, the applicant has not filed an application within one year after attaining the age of majority. Hence, this Original Application.

4. Learned counsel for the applicant submits that the State Government has directed the Head Offices of the respondent within the State vide Government Resolutions dated 23.10.1994 and 23.08.1996 respectively to give all

information as mentioned in the aforesaid G.Rs. to the concern who are eligible from the family of the deceased employee seeking compassionate appointment and accordingly, obtain the requisite information from the concern person in respect of his qualification, age, legal heirship etc. Learned counsel for the applicant submits that despite these directions the respondents have failed to comply with the same and not considered the claim of the applicant for appointment on compassionate ground. Learned counsel for the applicant submits that the respondents never deputed the Liaison Officer to guide the applicant and to provide any information in this regard.

5. Learned counsel for the applicant submits that in terms of clause No. 6 of the G.R. dated 23.08.1996, it is incumbent upon the respondent authorities to inform the family members of the deceased employee about the scheme of the compassionate appointment and all this information should be given within 15 days or at the time of submission of the pension papers. However, the respondent authorities have not informed about the same to the applicant or his mother. Learned counsel for the applicant submits that the applicant was minor at that time and the mother of the

applicant, who is illiterate lady, has filed an application dated 12.01.2000 stating therein that her children are minor and they would seek the appointment on compassionate ground after completion of their education. However, even at that time nor at the time of submission of pension papers, the respondent authorities have informed to the mother of the applicant about the time limit for filing of the application seeking compassionate appointment on attaining the age of majority of the children. Learned counsel for the applicant submits that thus the Original Application deserves to be allowed.

6. Learned counsel for the applicant placed his reliance on the following case to substantiate his contention:-

Writ Petition No. 439/2020 in a case of **Gopal Dayanand Ghate Vs. the State of Maharashtra & Ors.** dated on 20.10.2021 reported in 2021 DGLS (Bom.) 1412.

7. Learned Presenting Officer for the respondents on the basis of affidavit in reply filed on behalf of respondent Nos. 1 to 4 submits that the respondent No.2 has declined the proposal of the applicant on the basis of G.Rs. dated 26.10.1994 and 11.09.1996. Learned Presenting Officer submits that the applicant has not filed an application within

one year after attaining the age of majority. The applicant has submitted his application after more than two years after attaining the age of majority. The respondent No.2 has therefore rightly rejected the claim of the applicant.

8. Learned Presenting Officer submits that on perusal of the application submitted by the mother of the applicant dated 12.01.2000 (Annexure 'A-3'), it reveals that the mother of the applicant was aware of the provisions of the aforesaid G.Rs. She was well aware that the beneficiary should require to file an application for appointment on compassionate ground within the stipulated period. The applicant was minor at that time and the mother has requested for appointment on compassionate ground to her son on completion of his education and further assured that the he would submit fresh proposal for the same.

9. Learned Presenting Officer submits that as per the G.R. dated 11.09.1996, if the beneficiary is minor, then he should file an application for seeking appointment on compassionate ground within one year upon attaining the age of 18 years. The applicant became major on 24.01.2011 and he has not submitted his representation within one year i.e.

till 24.01.2012. The applicant has submitted his application on 26.12.2014 i.e. after the delay of two 2 years and 11 months. Hence, the respondent No.2 has rightly rejected the application of the applicant. There is no substance in the Original Application and the same is liable to be dismissed.

10. I have gone through the pleadings of the parties and perused the annexures accordingly. I have carefully gone through the application submitted by the mother of the applicant dated 12.01.2000 (Annexure 'A-3'). It appears from the said application at Annexure 'A-3' that in order to reserve the right of the family seeking appointment on compassionate ground to her minor son i.e. the applicant, the mother of the applicant has filed an application. It further appears from the Annexure 'A-4' that the Taluka Agricultural Officer, Pathardi- Ahmednagar has informed to the Divisional Deputy Director of Agricultural Department, Pune by communication dated 12.01.2000 about the receipt of the said application from the mother of the applicant. Except this official letter there is nothing on record to indicate that the respondent authorities have duly complied with the guidelines as prescribed in the G.Rs. dated 26.10.1994 and 23.08.1996.

11. On perusal of the G.R. dated 26.10.1994 and 23.08.1996 in this regard, I find that in terms of paragraph No. 6 of the G.R. dated 23.08.1996, it is incumbent upon the department to give understanding about the entire scheme of compassionate appointment to the relatives of the deceased employee within 15 days after the death of Government employee or at the time of forwarding the pension papers of such deceased employee. Even in the G.R. dated 21.09.2017, which has been issued by the Government after amalgamating all the G.Rs. in connection with the compassionate appointment, it is specifically reiterated in paragraph No. 7 by referring the earlier G.R. dated 23.08.1996 that it is incumbent upon the department to give understanding and information to the family of the deceased employee about the scheme of compassionate appointment in detail within 15 days from the death of Government employee or at the time submission of pension papers.

12. In the instant case, though the respondent authorities have failed to perform their responsibilities, surprisingly taken a defense that the mother of the applicant (who is illiterate lady) had knowledge about filing of the

application seeking compassionate appointment within one year after attaining the age of majority of her children.

13. As discussed in the foregoing paragraphs, the mother of the applicant has submitted an application dated 12.01.2000 (Annexure 'A-3') to reserve the right of the family seeking appointment on compassionate ground for her minor son on completion of his education.

14. The applicant himself had filed an application dated 19.11.2014 (Annexure 'A-6') seeking appointment on compassionate ground along with all the necessary documents. It further appears from the educational certificates that the applicant has completed degree course in the year 2014 and has been given the provisional passing certificate issued by Mahatma Phule Krishi Vidyapeeth, Rahuri, Dist. Ahmednagar on 23.06.2014. The applicant has obtained the degree of B.Sc. (Agriculture). In the above referred application dated 19.11.2014 (Annexure 'A-6'), the applicant himself has given reference about the earlier application submitted by the mother dated 12.01.2000 (Annexure 'A-3'). After rejection of the claim, the applicant has made the representation twice to consider his case. On

perusal of the same Annexure 'A-11' and Annexure 'A-12' it appears that the applicant has time and again given reference to the application submitted by his mother dated 12.01.2000 (Annexure 'A-3') and further clarified it that within one year from the date of death of father, the mother of the applicant has submitted an application. It is thus clear that neither the mother of the applicant nor the applicant were knowing about the filing of an application for compassionate appointment within one year after attaining the age of majority, if the beneficiary is minor at the time of death of the Government employee.

15. Thus I don't find any substance in the submission made on behalf of the respondent authorities that the mother of the applicant had knowledge about the provisions of the above referred G.Rs. It appears that the respondent authorities have given lame excuses for not complying with the aforesaid G.Rs. of the year 1994, 1996 and 2017 respectively.

16. In a case of **Gopal Dayanand Ghate Vs. the State of Maharashtra & Ors.**, reported in 2021 DGLS (Bom.) 1412, the Division Bench of Hon'ble High Court of

Bombay, Bench at Aurangabad in the identical facts of the case in paragraph Nos. 4 (xiii), 10 and 13 has made the following observations:-

“4(xiii) Government Resolution dated 21.09.2017 provides vide clause 7A of Annexure A to the government resolution, that after an employee (officer) working in the Zilla Parishad dies in harness, it shall be the responsibility of the establishment officer to intimate the bereaved family, after 15 days of the death, the eligibility of any member of the family for compassionate appointment and details of the rights of the family members.

10. This Court, at the Nagpur Bench, has delivered a judgment in the matter of Roshan Vitthal Kale and Ors Vs. The State of Maharashtra and Ors., 2020 (3) Mh.L.J. 470, which deals with a similar case, as like clause 7A of the annexure to the Government Resolution dated 21.09.2017, which, as per the Zilla Parishad, is squarely applicable to the petitioner. The said clause mandates the establishment officer of the Zilla Parishad to apprise the family of their right to have one eligible adult person to seek compassionate appointment. Clause 7A further requires that necessary papers will also have to be got filled in by the establishment officer from the family member who is eligible to be appointed. This has not been done by the Zilla Parishad.

13. We direct respondent no.2 to enlist the petitioner in the list of eligible candidates for compassionate appointment and his seniority for being appointed as a Junior Engineer whenever the post is vacant, shall depend on the date of his filing of application which is 26.06.2015 and he shall be enlisted in such list based on the said date and not from the date of this order.”

17. In the instant case also the father of the applicant who was the Government employee died in harness. It was responsibility of the respondent authorities to intimate the family, after 15 days of the death, the eligibility of any member of the family for compassionate appointment and details of the rights of the family members. Failing therein, the applicant is entitled to be considered for appointment on compassionate ground. Hence, the following order:-

ORDER

- (A) The Original Application is hereby partly allowed.
- (B) The respondent authorities are hereby directed to enlist the name of 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 19.11.2014.
- (C) The respondent authorities are hereby directed to give appointment to the applicant on compassionate ground in Class-III/C or Class-IV/D category in place of his deceased father namely Sopan Shidore subject to vacancy of the

posts within the period of three months as far as possible from the date of this order.

(D) In the circumstances, there shall be no order as to costs.

(E) The Original Application is accordingly disposed off.

MEMBER (J)

Place:-Aurangabad

Date : 10.06.2024

SAS O.A. 597/2020 (S.B.) Compassionate Appointment