

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.1064 OF 2023

DISTRICT : MUMBAI

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|----|------------------------------------|---|--------------|
| 1. | Shri Anandkumar Balraj Armugam, |) | |
| | Age Major, Occ. Nil, |) | |
| 2. | Pechemal Balraj Armugam, |) | |
| | Age 42 years, Occ. Household, |) | |
| | R/at Unit No.7, Aarey Milk Colony, |) | |
| | Goregaon (E), Mumbai 400065 |) |)..Applicant |

Versus

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|----|---|---|----------------|
| 1. | The State of Maharashtra, |) | |
| | Through its Secretary, |) | |
| | Ministry of Agriculture, Fisheris, Animal |) | |
| | Husbandry & Dairy Development Department, |) | |
| | Mantralaya, Mumbai |) | |
| 2. | The Commissioner, |) | |
| | Dairy Development Department, |) | |
| | Worli, Mumbai 400018 |) | |
| 3. | The Chief Executive Officer, |) | |
| | Office of the Aarey, Aarey Milk Colony, |) | |
| | Goregaon (E), Mumbai 400065 |) |)..Respondents |

Smt. Anjali Kolapkar h/f Shri A.S. Gaikwad – Advocate for the Applicant
Shri A.J. Chougule – Presenting Officer for the Respondents

CORAM : Shri Atulchandra M. Kulkarni, Member (A)
RESERVED ON : 12th February, 2025
PRONOUNCED ON: 20th February, 2025

J U D G M E N T

1. Heard Smt. Anjali Kolapkar h/f Shri A.S. Gaikwad, learned Advocate for the Applicants and Shri A.J. Chougule, learned Presenting Officer for the Respondents.

2. The applicants pray for allowing the Original Application and quashing and setting aside the impugned communication/order dated 24.2.2022 passed by the Respondent No.3 against the applicant no.1. The Applicants also prays for quashing and setting aside the impugned communication dated 3.11.2015 issued by Respondent No.3 in favour of the Applicant No.2 and prays for directions to the respondents to appoint applicant no.1 on compassionate ground with effect from his eligible date of appointment on the basis of GR dated 26.10.1994.

3. Facts of the case are as follows:

(i) On 20.10.1976 the original employee viz. Balraj Armugam joined as Mazdoor/Watchman (Class IV/Group-D) in Aarey Dairy. He died while in service on 10.9.2006.

(ii) On 15.12.2006 the Chief Executive Officer, Aarey Dairy informed the wife of the deceased employee i.e. applicant no.2 and her three children about nomination of all the four of them for

family pension and connected benefits. In this communication the age of applicant no.2 is shown as 46 years old.

(iii) The Applicant No.2 vide her application dated 19.1.2007 addressed to the respondent no.3 asked to appoint her son i.e. applicant no.1 on compassionate basis in place of her deceased husband which is within one year of the death of the original employee.

(iv) This was followed by application dated 28.9.2007 by applicant no.1. He has followed it up with subsequent applications one after the other. The respondent no.3 has informed applicant no.1 on 20.4.2015 about completion of certain mandatory requirement to consider application for compassionate appointment.

(v) On 3.11.2015 the respondent no.3 has informed applicant no.2 that her name has been recommended for compassionate appointment to the Superintending Engineer, Special Project Circle, Worli Dairy Premises. Applicant no.2 was asked to reach the office of Superintending Engineer with original documents. Meanwhile, applicant no.1 has informed by his letter dated 5/10.11.2015 to the respondent no.3 regarding compliance of the requirement as specified in the letter dated 20.4.2015 of respondent no.3.

(vi) The applicant no.1 has further informed the respondent no.3 that his name should be considered in place of his mother i.e. applicant no.2 and has enclosed the affidavit of his mother dated 31.10.2015. He has also enclosed affidavit of his brother Mangesh and sister Papita regarding No Objection Certificate to applicant no.1 for being considered for compassionate appointment. This affidavit is also dated 31.10.2015.

(vii) The respondent no.3 has informed applicant no.1 by letter dated 24.2.2022 the inability to process his application for compassionate appointment as applicant no.2 has been appointed. This is the impugned order.

4. Ld. Advocate for the applicants has relied on the judgment and order dated 7.11.2022 passed by this Tribunal in **OA No.466 of 2022 Smt. Sunanda N. Ghatkamble & Anr. Vs. The State of Maharashtra & Ors.** However, it is a case distinguished in facts from the current case. Hence, it is not applicable to the present case.

5. Ld. Advocate for the applicants has sought to rely on GAD GR dated 26.10.1994. This GR has seen several revisions thereafter.

6. Ld. Advocate for the applicants while rebutting this submission contends that this case is not a case of substitution of the wife of the deceased employee by his son as from the beginning i.e. from her first application dated 19.1.2007 which is preferred within one year of the death of the original employee, applicant no.2 (wife of the deceased original employee) has asked to provide compassionate appointment to applicant no.1 (son of the deceased original employee). This stand of the family is consistent all through. However, by communication dated 3.11.2015 addressed to applicant no.2 and dated 24.2.2022 addressed to applicant no.1, the respondent no.3 maintains that applicant no.2 has been given compassionate appointment.

7. Ld. PO submits that the applicants should have approached this Tribunal immediately after the communication dated 3.11.2015 was received by the applicant no.2. However, the applicants have failed to do so and approached this Tribunal on 21.8.2023. Ld. PO contends that

there is an inordinate delay from 3.11.2015 till the time this OA came to be filed. This delay indicates that the applicants were not in dire need of compassionate appointment.

8. Ld. PO states that with the affidavit in reply dated 11.1.2024 filed by Sanjay Magan Jogi, Head Clerk having additional charge of Assistant Executive Officer in the office of Chief Executive Officer, Aarey Milk Colony, Goregaon (E), Mumbai, GAD GR dated 20.5.2015 is attached as enclosure. This GR disallows substitution of the nominee for compassionate appointment vide its clause 1(c) barring death of the nominee itself.

9. The delay of 2 months and 19 days was condoned by order dated 24.8.2023 passed by this Tribunal in MA No.543/2023 in the above OA.

10. Moreover, by letter dated 10.3.2022 responding to the impugned communication dated 24.2.2022, applicant no.1 has informed respondent no.3 that applicant no.2 had crossed the upper age limit for compassionate appointment from beginning as her age was 46 years mentioned in the order of 15.12.2006 of respondent no.3. He further requested that his application should be considered for compassionate appointment.

11. It is to be noted that the applicant no.2 had made application to the respondent no.3 within one year of the death of her husband i.e. original employee and had been consistent with asking compassionate appointment to applicant no.1. Applicant no.2 was already 46 years of age and hence ineligible for compassionate appointment, she must have been aware.

12. Applicant no.1 was asked to provide certain documents by the respondent no.3 to facilitate consideration of his case for compassionate appointment on 20.4.2015. With this communication, the respondent no.3 raised the hopes of applicant no.1 for consideration for compassionate appointment.

13. The respondent no.3 appears to be unsure of whom the compassionate appointment is to be offered: to wife of the deceased employee or son i.e. applicant no.2 or applicant no.1, because respondent no.3 is simultaneously writing to applicant no.1 to submit certain documents vide above letter and informing applicant no.2 vide letter dated 3.11.2015 that she has been selected for compassionate appointment and that she has to reach the office of Superintending Engineer, Special Project Circle, Worli Dairy Premises along with necessary documents.

14. It is also a fact that applicant no.2 never asked for compassionate appointment to herself and instead asked it for applicant no.1.

15. Considering all the above facts including submissions of both sides, I pass the following order:

ORDER

A) The Original Application is partly allowed.

B) The impugned communications dated 24.2.2022 and 3.11.2015 are quashed and set aside.

C) The Respondents are directed to consider the application of applicant no.1 for appointment on compassionate ground and it will be judicious that his name is included in the waiting list for issuance of

appointment order, subject to fulfillment of eligibility criteria in accordance to rules.

D) This exercise to be completed within three months from today. The applicant no.1 will be completing the age of 45 years on 24.2.2025, this fact should not be held against appointing him on compassionate ground.

E) No order at costs.

Sd/-
(A.M. Kulkarni)
Member (A)
20.2.2025

Dictation taken by: S.G. Jawalkar.