

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.454 OF 2024

DISTRICT : PUNE
Sub.:- Compassionate
Appointment

Kum. Bhagyashree R. Thorat.)	
Age : 25 Yrs, Residing at Nanded)	
City, Sinhgadh Road, House No.)	
M-105, Sarang Building,)	
Post Nanded, Tal. Haveli,)	
District : Pune.)	...Applicant

Versus

- | | | |
|---|---|-----------------------|
| 1. The State of Maharashtra. |) | |
| Through Principal Secretary, |) | |
| Public Health Department, |) | |
| 10 th Floor, A Wing, G.T. |) | |
| Hospital Complex Building, |) | |
| Lokmanya Tilak Road, |) | |
| Mumbai 400 001. |) | |
| 2. The Commissioner, |) | |
| Employees State Insurance Scheme, |) | |
| Panchadeep Bhavan, 5 th Floor, |) | |
| N.M. Joshi Marg, Lower Parel, |) | |
| Mumbai – 400 013. |) | |
| 3. The Administrative Medical Officer, |) | |
| ESIS, Survey No.689/1990, |) | |
| Panchdeep Bhavan, Ground Floor, |) | |
| Bibwewadi, Pune – 411 037. |) | ...Respondents |

Shri U.V. Bhosle, Advocate for Applicant.

Shri A.J. Chougule, Presenting Officer for Respondents.

CORAM : Shri M.A. Loveker, Vice-Chairman

DATE : 07.03.2025

JUDGMENT

1. Heard Shri U.V. Bhosle, learned Advocate for the Applicant and Shri A.J. Chougule, learned Presenting Officer for the Respondents.

2. Undisputed facts are as follows. Father of the Applicant was working as Pharmacist Group-C in the Respondent-Department. He died in harness on 13.02.2021. His son Rushikesh applied for appointment on compassionate ground on 01.12.2021 to Group-C post. By letter dated 25.07.2022, he was informed that he could not be considered for Group-C post for want of educational qualification. On 23.02.2023, present Applicant, sister of Rushikesh, submitted application for appointment on compassionate ground. It was rejected by the impugned order dated 08.05.2023 on the ground that it was not submitted within one year from the date of death of her father. Hence, this application.

3. According to the Respondents, compassionate appointment is not a matter of right and since the application was submitted by the Applicant after lapse of one year from the date of death of her father, it was rightly rejected in view of prevailing guidelines contained in GR dated 21.09.2017.

4. In support of her case that her application for appointment on compassionate ground could not have been rejected on the ground of limitation, the Applicant has relied on the following observations made by the Hon'ble Bombay High Court in ***Kalpana Wd/o. Vilas Taran Vs. State of Maharashtra & 2 Ors.*** (Judgment of Full Bench in a batch of Writ Petitions) :-

“23. Thus, it is evident that, if a family member of the deceased/incapacitated employee applies for substitution of his name with another family member, it cannot be treated as a fresh application

or subsequent application or it cannot be implied that more than one member is seeking compassionate appointment.

24. The scheme permits compassionate appointment to one eligible legal heir of the deceased/incapacitated employee with an object to enable the family to tide over the sudden financial crisis. In the circumstances, if substitution is permitted, it would amount to replacement of name by another name. As substitution does not amount to making of a fresh application or staking a claim by more than one legal heir of the deceased, it cannot be said that substitution would run counter to the purpose and object of compassionate appointment.”

5. In view of undisputed facts and law applicable thereto as laid down in the case of **Kalpana** (supra), the OA is allowed in the following terms:-

- (a) The impugned order dated 08.05.2023 is quashed and set aside.
- (b) The Respondents are directed to consider application of the Applicant for appointment on compassionate ground on its own merits, and in accordance with relevant Rules, expeditiously.
- (c) No order as to costs.

Sd/-
(M.A. Lovekar)
Vice-Chairman

Mumbai
Date : 07.03.2025
Dictation taken by :
S.K. Wamanse.

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