

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL

MUMBAI

ORIGINAL APPLICATION NO.440 OF 2018

DISTRICT : PUNE

1. Smt. Nirmala Balasaheb Kamble,)
2. Ms. Asha Balasaheb Kamble,)
3. Shri Shubham Balasaheb Kamble)
All residing at Chandramani Nagar,)
Old Sangavi, Pune 411 027.)... Applicants

Versus

1. State of Maharashtra,)
Through Principal Secretary,)
Water Resources Department,)
Mantralaya, Mumbai 400 032.)
2. Superintending Engineer,)
Pune Irrigation Circle.)
2nd floor, Sinchan Bhavan,)
Pune 411 011.)
3. The Executive Engineer,)
Mechanical Division No.1,)
Dapodi, Pune 411 012.)... Respondents

Smt. Punam Mahajan, learned Advocate for the Applicant.

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

CORAM : Shri P.N. Dixit, Vice-Chairman (A)

DATE : 20th August, 2019

J U D G M E N T

1. Heard Smt. Punam Mahajan, learned Advocate for the Applicant and Ms. N.G. Gohad, learned P.O. for the Respondents.

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2. Applicant's father was working as Helper in the office of Respondent No. 3 (Executive Engineer). He died on 21.08.2009 in harness. His wife was placed in the waiting list for compassionate Appointment on 17.06.2010. As she completed 40 years of age on 20.09.2008, her name was deleted from the waiting list. In her place, Applicant No. 2 (Daughter) was placed in the waiting list. On 17.12.2014, Sasson Hospital, Pune declared her unfit for Government Job, as she has undergone open Heart Surgery. Meanwhile, Applicant No. 3 who completed 18 years on 20.08.2013 applied to consider his name in the waiting list (Annexure A-11). The same has been rejected by the impugned order issued on 07.04.2016 (Annexure A27, page 123 dated 16.04.2018 of the O.A.). Respondent Nos. 2 and 3 have filed Affidavit and submitted as under:-

"That the Chief Secretary vide its Reply dated 07/04/2016 informed that once the Appointment of any legal heir of deceased Employee is accepted compassionate appointment (like in present case Name of Applicant No.2), there is no provision to substitute that name in place of another legal heir on whatsoever ground. Hence the name of Applicant No.3 was Rejected."

3. In the peculiar circumstance mentioned above, looking at the plight of the Applicant and his family, it would be in the interest of justice to direct the Respondents to consider the name of the Applicant in the waiting list on compassionate ground.

4. In this regard, the learned Advocate for the Applicant relied on the judgment given in O.A. No.426 of 2008 by this Tribunal. The relevant portion of the same at para 3 is as under:-

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"3. As per the settled legal position, several judgments passed by the Hon'ble Supreme Court, Hon'ble High Court and by this Tribunal from time to time, have directed to consider the name of the substitute in the waiting list because of peculiar circumstances. The relevant judgments in this regard are as under:

(i) Supriya Suresh Patil @ Sow Supriya Pratik Kadam Vs. State of Maharashtra & Ors., Civil Appeal No.5216 of 2018 decided by the Hon'ble Supreme Court on 12.5.2018.

(ii) Smt. Sushma Gosain & Ors. Vs. Union of India, AIR 1989 SC 1976.

(iii) W.P. No.8771 of 2015 Shri Dhulaji Shrimant Kharat Vs. State of Maharashtra & Ors. decided by the Hon'ble Bombay High Court on 12.12.2018.

(iv) W.P. No.13932 of 2017 State of Maharashtra & Ors. Vs. Smt Anusaya V. More & Anr. decided by the Hon'ble Bombay High Court on 18.7.2018.

(v) OA No.9/2018 Shri Vijay Ganapati Lakade & Anr. Vs. State of Maharashtra & Ors. decided by this Tribunal on 8.8.2019."

5. In view of the above, prayer at 9 (A) is partly conceded. The Respondents are directed to consider the name of Applicant No. 3 in place of Applicant No.2 in the waiting list within a period of two months. No order as to costs.

Sd/-

(P.N. Dixit)
Vice-Chairman (A)
20.8.2019

Dictation taken by: N.M. Naik.