

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI

ORIGINAL APPLICATION NO.1040 OF 2016

DISTRICT : MUMBAI

Shri Yogesh Hanumant Mane. )  
Aged : 19 Yrs, Occu. Nil, )  
R/o. Ramabai Nagar, Shanti Sagar Soc., )  
Room No.402, B-2, Laxmi Niwas, )  
Ghatkopar (E), Mumbai 400 075. )...**Applicant**

**Versus**

1. The Commissioner of Police, Mumbai )  
Through Dy. Commissioner of Police, )  
Head Quarter-2, Having Office at )  
Mumbai Police Commissionerate, )  
L.T. Marg, Opp. Crawford Market, )  
Fort, Mumbai 400 001. )
2. The State of Maharashtra. )  
Through Principal Secretary, )  
Home Department, )  
Mantralaya, Mumbai - 400 032. )...**Respondents**

**Mr. A.V. Bandiwadekar, Advocate for Applicant.**

**Mrs. A.B. Kololgi, Presenting Officer for Respondents.**

**P.C. : R.B. MALIK (MEMBER-JUDICIAL)**



**DATE : 26.04.2017**

**JUDGMENT**

1. This Original Application (OA) is made by the son of the deceased Government employee Shri Hanumant Mane seeking compassionate appointment.

2. I have perused the record and proceedings and heard Mr. A.V. Bandiwadekar, the learned Advocate for the Applicant and Mrs. A.B. Kololgi, the learned Presenting Officer (PO) for the Respondents. The 1<sup>st</sup> Respondent is the Commissioner of Police, Mumbai and the 2<sup>nd</sup> Respondent is the State in Home Department.

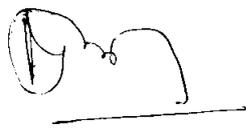
3. A very detailed statement of facts may not really be necessary. The father of the Applicant passed away on 10.5.2015. It would suffice to mention that the Applicant seeks appointment on compassionate ground.

4. The Applicant was born on 8.12.1996. It clearly appears from the record that, apart from his mother, he has also got a brother Mr. Sandesh H. Mane. He has already been in the Police service from 29.7.2010. There are a few significant GRs in the field governing the issue like the present one. It may not be necessary for me to



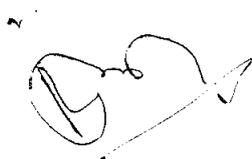
read them all over here for the purposes of deciding this OA. It may, however, be safely noted that as a result of the recitals therein as well as a few binding Judgments in the field, it is well settled or so it appears it is that the appointment on compassionate ground does not constitute a kind of right in the true jurisprudential terms, but it still can be considered to be a somewhat weaker type of right which can be enforced before the judicial forum of competent jurisdiction. A few facts are required to be borne in mind including as to whether the sudden death of the sole bread winner has left the family in a state of helpless and hapless penury. However, in practical terms, it appears that the Respondents tend to make this as much more concentrated and harder than what it really is. But even that aspect of the matter need not be examined in close details in view of the course of action that this OA is destined to get disposed of in.

5. The next aspect of the matter which surely is relevant fact is as to whether in the family of the said deceased, there was any other bread winner at the time of the demise of the deceased Government employee or even at the time, the application was made for seeking the benediction of the compassionate appointment. That is a fact to be considered in the context of the facts and

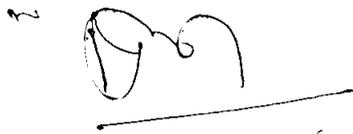
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circumstances of each case and there is no straight jacketed formula of universal application to be applied in all cases. For example, the Applicant of such an OA can always try and show that though there was another member of the family in employment, but for various reasons, it was not good enough so as to deny to the said dependent, the benefit of compassionate appointment. On present facts, I express no opinion thereabout. It may only be mentioned that in ground 6.10 (b), the fact of Mr. Sandesh Mane being in service has been clearly disclosed, and therefore, the criticism leveled against the Applicant for having not come before the Tribunal with clean hands does not appear to be well founded, although the learned PO then invited attention to the fact that in the Application Form seeking compassionate appointment, this fact was not disclosed. That omission is in no way nearer to the omission, if there are any in the formal documents like the OA tendered before the Court, but the facts and the conclusions to be drawn in this OA are such that the cleanliness of the hands and the extent thereof is something that I need not closely examine.

6. Now, in the context of the above facts, it appears that the issue of the income that the family could said to have been deriving from Mr. Sandesh Mane is relevant and



for that, precise purpose, an enquiry was conducted through an ASI. The report in that behalf is at Exh. 'R-2' (Page 65 of the Paper Book (PB)). It shows that the enquiry was secret (Gopniya in Marathi). It concluded inter-alia that the Applicant's brother Mr. Sandesh Mane was a Police Constable staying together with the mother and the Applicant at Ramabai Nagar, Ghatkopar (E), but it was mentioned that his financial condition was average (sadharan in Marathi). It was also mentioned that the Applicant was taking education in Diploma. Now, it is very clear that the Applicant or his family was not asked to join that particular investigation. I am at a complete loss to understand and I disapprove of the kind of secret enquiry that was made, in fact, when the matter involved as a very significant fact component, the family circumstances of the Applicant, the Applicant and his family members ought to have been associated with the enquiry. This is not to suggest that, that was the only way to reach the conclusion. In fact, the person enquiring into was at liberty to tap other sources as well but to keep it secret from the Applicant's family and that too, with regard to an aspect which was so momentous that it was impermissible.

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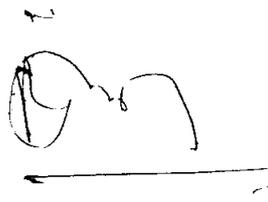
7. At the same time, however, one cannot lose sight of the fact that Mr. Sandesh Mane was already serving the Police Force for about five years, when his father passed away, and therefore, that circumstance is not entirely irrelevant. In the context of these facts, I am of the opinion that a proper enquiry needs to be held to ascertain inter-alia as to whether the facts and circumstances that the Applicant has been placed in, are such that his claim for compassionate appointment can be favourably considered.

8. Before concluding, it needs to be noted that Mr. Bandiwadekar, the learned Advocate for the Applicant relied upon a Judgment of this Tribunal in **OA 381/2015 (Shri Rahul L. Sakpal Vs. Commissioner/Director (Administration), ESIS, dated 22.4.2016) (CORAM : Shri Rajiv Agarwal, Vice-Chairman)**. The learned PO Mrs. A.B. Kololgi on the other hand relied upon **OA 383/2014 (Kum. Jyoti V. Mane Vs. State of Maharashtra and 2 others) rendered on 17.2.2016** by the 2<sup>nd</sup> Division Bench of this Tribunal which spoke through the Hon'ble Vice Chairman but of which Bench I was also a Member. The learned PO also relied upon the Judgment in the matter of **LIC Vs. Asha Ramchandra Ambekar : 1994 AIR 2148 = 1994 SCC (2) 718**. She also relied upon **Smt. Sushma Gosain And Ors. Vs. Union of India And Ors. : 1994 SCC**



**(4) 138, State Bank of India And Ors. Vs. Aspal Kaur : Appeal (Civil) 409 of 2007, Santosh Kumar Dubey Vs. State of U.P. And Ors. : Civil Appeal No.1955 of 2003, State Bank of India Vs. Suryanarayan Tripathi : Civil Appeal No.9730 of 2011, The Chief Commissioner, Central Excise and Customs, Lucknow And Ors. Vs. Prabhat Singh : Civil Appeal No.8625 of 2012, M.G.B. Gramin Bank Vs. Chakrawarti Singh : Civil Appeal No.6348 of 2013 and Rajasthan State Road Vs. Revat Singh : Civil Appeal No.2061 of 2015.**

9. These Judgments laid down the principles that are required to be borne in mind in considering the claims of the dependants of the deceased Government servant for compassionate appointments. It needs hardly be stressed that the facts are bound to differ. In the present set of circumstances, the facts are such where the enquiry hereinabove indicated has got to be made for a decision with regard to the compassionate appointment which would be just and proper. It is again made clear that it will not be an enquiry behind the back of the Applicant and his family and the enquiry will have to be associated and concluded within the time limit set by this order, for otherwise, it should not become a matter of endless wait



for the Applicant and his family. They are entitled to know their fate one way or the other sooner than later.

10. This Original Application is disposed of with directions to the Respondent No.1 – Commissioner of Police, Mumbai to enquire into the aspect set out in detail in the body hereof, bearing in mind the directions therein and conclude it within a period of eight weeks from today. After the said enquiry, the issue of compassionate appointment of the Applicant be decided within four weeks and communicate its outcome within one week thereafter to the Applicant. No order as to costs.

Sd/-

**(R.B. Malik)**  
**Member-J**  
**26.04.2017**

26.04.17

Mumbai

Date : 26.04.2017

Dictation taken by :

S.K. Wamanse.

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