

THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI

**ORIGINAL APPLICATION NO.1049 OF 2014
(Subject : Compassionate Ground Appointment)**

DISTRICT: MUMBAI

Sujata Babasaheb Kamble,)
R/o. Government Quarters No.2,)
Room No.198, Bandra –East,)
District Mumbai.) **.. Applicant**

Versus

- 1) The State of Maharashtra,)
Through the Secretary,)
Industries, Port, Employment and)
Self-Employment Department,)
Mantralaya, Mumbai 32.)
- 2) The District Collector, Mumbai.)
District Mumbai.)
- 3) The Development Commissioner,)
New Administrative Building,)
In front of Mantralaya, Mumbai 32.)
- 4) The Deputy Director of Industries,)
New Administrative Building,)
In front of Mantralaya, Mumbai 32.) **..Respondents.**

Shri J.S. Deshmukh, the learned Advocate holding for Shri S. Tawshikar, the learned Advocate for the Applicant.

Smt. Archana B.K., the learned Presenting Officer for the Respondents.

CORAM : JUSTICE SHRI A.H. JOSHI, CHAIRMAN
RESERVED ON : 28.09.2016.
PRONOUNCED ON : 29.09.2016.

J U D G M E N T

1. Heard Shri J.S. Deshmukh, the learned Advocate holding for Shri S. Tawshikar, the learned Advocate for the Applicant and Smt. Archana B.K., the learned Presenting Officer for the Respondents.

2. Heard both sides. Perused the record annexed to O.A.. The Applicant has challenged impugned communication dated 07.01.2014, copy whereof is at Exhibit-F, page 25 of the paper book.

3. Applicant had been removed from wait list for the appointment on compassionate basis on the ground that Applicant has completed 45 years of age. The fact of the matter contained in the impugned order i.e. applicant's having completed 45 years of age is not disputed.

4. During the course of argument, learned Advocate Shri J.S. Deshmukh was directed to isolate the ground on challenge and illegality which could be the foundation of challenge.

5. Learned Advocate Shri J.S. Deshmukh states that the ground of challenge are those as narrated in grounds No.(I) to (III). Those are quoted below :-

(I) That the applicant is widow of the deceased Babasaheb Kamble, who demised while he was in government service. The applicant is childless lady. There is nobody to look after her. She had applied for the compassionate appointed well in time.

(II) The impugned communication refusing compassionate appointment to the applicant is against the settled principles of law. Thus, same is otherwise bad in law.

(III) The respondent No.1 failed to accommodate the applicant in service as per policy of compassionate appointments. The applicant being helpless widow of deceased Babasaheb Kamble, she was required to accommodate in service at earliest. The respondent did not grant her appointment for six years and ultimately refused her claim on her crossing age of 45 years. The said act of respondent is illegal and arbitrary."

(Quoted from page 8 of the O.A. paper book.)

6. After consideration of the grounds, it transpires that, blaming and criticizing the impugned order as “illegality”, “otherwise bad in law” and “arbitrary” etc. in the grounds is like utterance of abuses.
7. The illegality is to be pleaded eloquently and is to be proved, if some facts are involved by narrating the facts. If any admitted fact is the basis for describing the illegality, it has to be shown with reference to any provision of law, rule, precedent etc..
8. Applicant has failed to show with reference to any rule, law or precedent or otherwise, illegality.
9. In the result, O.A. turns out to be a challenge raised with utmost cautiousness. No grounds are made out whatsoever for interference.
10. In view of the foregoing paragraphs Original Application has no merit and is dismissed. In the facts and circumstances, parties are directed to bear own costs.

(A.H. Joshi, J.)
Chairman

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