

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

ORIGINAL APPLICATION NO.1176 OF 2023

**DISTRICT: PALGHAR
SUB : COMM.APPOINTMENT**

Shri Naresh Ramesh Bariya ,)
Age:- 43 years, R/at B/216, Gokul CHS,)
Near Railway Station, Nalasopara (East),)
Dist. Palghar 401 209.)... **Applicant**

Versus

- 1) The State of Maharashtra, through its)
Principal Secretary, Medical Education &)
Drugs Department, 9th floor, G.T. Hospital)
Compound Building, Lokmanya Tilak Marg)
Mumbai 400 001.)
- 2) The Director, Medical Education and)
Research, 4th floor, Govt. Dental College)
Bldg., St. George Hospital Compound,)
P.D'Mello Road, Mumbai 400 001.)
- 3) The Dean, Sir. J. J. Group of Hospitals)
And Grant Medical College, J. J. Marg,)
Nagpada, off Jeejeebhoy Road,)
Mumbai 400 008.)...**Respondents**

Shri U. V. Bhosale, learned Advocate for the Applicant.

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

CORAM : Shri A. N. Karmarkar, Hon'ble Member (J)

DATE : 03.09.2024

ORDER

1. Heard Shri U. V. Bhosale, learned Advocate for the Applicant and
Smt. Archana B. K., learned Presenting Officer for the Respondents.

2. The relief sought by the Applicant is to direct the Respondents to appoint him on the post of 'Sweeper'.

3. The Applicant's mother Smt. Vimala Bariya was working as Sweeper with Respondent No.3-Sir. J. J. Hospital, Mumbai. She retired on superannuation on 31.10.2017 and nominated the Applicant as her legal heir so as to get him job on the post of Sweeper vide letter dated 09.11.2017. Similarly, the Applicant has filed application on the same day along with documents to get appointment on compassionate ground. The Respondent No.3 intimated to Applicant's mother vide order dated 26.11.2021 that name of the Applicant has included in the wait list at Sr. No.42 as there were no vacant posts of Sweeper. Since the Applicant did not get appointment, he filed O.A.No.652/2023. The said OA was withdrawn with liberty to seek information under RTI.

According to Applicant, the Respondent No.3 has not provided information about position in the wait list and deliberately avoided to give correct information. The application is filed on the ground that application of applicant is not decided within 30 days as per GR dated 12.10.2015 though he is having requisite qualification. Secondly, the Respondent No.3 has deliberately avoided to give his correct serial number in the wait list.

4. The Respondent No.3 has filed Affidavit in Reply on 05.01.2024. According to him, previously there were 60 applications pending for compassionate appointment on the post of Sweeper from the legal heirs of those employees who were working as Sweeper under J. J. Group of Hospital, Mumbai. However, as of now there are no vacancies for Sweeper cadre, hence it is not possible to appoint 'Age Barred' Applicant.

5. I have perused initial Affidavit and additional short Affidavit filed on behalf of Respondent No.3 dated 24.08.2024. It appears from the documents that Applicant was informed by Respondent vide letter dated 26.11.2021 that name of the Applicant is inserted in the waiting list at Sr. No.42 as per seniority. However, in subsequent short affidavit filed by

Respondent No.3, it is mentioned that name of the Applicant is at Sr. No.47 in the waiting list. It is not explained in Affidavit as to how serial number is changed.

6. According to learned Advocate for Applicant in the year 2023 on retirement of one of the employees on post of 'Sweeper', her legal heir was given appointment. Said order does not reveal specific date of retirement of the concerned employee.

7. However, short Affidavit filed by Respondent No.3 shows that due to insistence of the candidates whose applications for appointment were pending, a Committee under the head of Shri Kale was formed. They have prepared seniority list. In all, 121 applicants were qualified after verification of pending as well as new applications. Out of it about 60 candidates were given appointment in 2021 and prior to it.

There is specific contention in the said Affidavit that due to complaints of irregularities in these recruitments, new Committee headed by Shri Ashok Anand was formed. He has reported about irregularities and the officer responsible for it. It is specific contention in the said Affidavit that the Dean of the institute started movement of recruitment of candidates on basis of Warsaa Hakka (Right of Inheritance). The Dean has also solicited guidance from the Commissioner, Medical Education, Mumbai for posting of remaining 60 applicants on the post of Class-IV servants in which Applicant is one of the candidates. They have also contended that after getting positive order from appropriate authority, they will forward the proposal for consideration of 'Age Relaxation'.

8. According to learned Advocate for Applicant, the Applicant is completing age of 45 years. Considering the outer limit for posting in the GR dated 10.11.2015, the relief of direction as sought cannot be allowed. However, considering specific contentions in short Affidavit of Respondent No.3 referred above, the Original Application can be

disposed of by directing the Respondents to consider the case of Applicant in accordance to law. Hence, the following order :-

ORDER

- (A) The Original Application is partly allowed.
- (B) The Respondent Nos.1 to 3 to consider the case of Applicant in accordance with law.
- (C) No Order as to Costs.

Sd/-

(A. N. Karmarkar)
Member (J)

Place: Mumbai

Date: 03.09.2024

Dictation taken by: V. S. Mane

D:\VSM\VSO\2024\Judgment 2024\M(J) Order & Judgment\O.A.1176 of 2023 compassionate appointment.doc

