

**THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

ORIGINAL APPLICATION NO.18 OF 2016

DISTRICT : THANE

Shri Ravindra Dhondiram Suryawanshi,)
R/o. Sector – I, Police Line,)
Room No.B-2/22, CBD Belapur,)
Navi Mumbai.)

..APPLICANT

VERSUS

1. The State of Maharashtra,)
Through the Addl. Chief Secretary,)
Home Department, Mantralaya,)
Mumbai 32.)
2. The Commissioner of Police,)
CBD Belapur, Konkan Bhavan,)
Navi Mumbai.)
3. The Director General of Police,)
Maharashtra State,)
Shahid Bhagat Singh Marg, Fort,)
Mumbai.)

....RESPONDENTS

Shri R.M. Kolge, learned Counsel for the Applicant.

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

CORAM : SHRI RAJIV AGARWAL, VICE-CHAIRMAN

DATE : 18.11.2016.

J U D G M E N T

1. Heard Shri R.M. Kolge, learned Counsel for the Applicant and Smt. Archana B.K., learned Presenting Officer for the Respondents.

2. This Original Application has been filed by the Applicant seeking compassionate appointment as heir to his deceased father who died while in Government service. He is challenging communication dated 25.07.2012 issued by the Respondent No.2 rejecting the request of the Applicant for compassionate appointment.

3. Learned Counsel for the Applicant argued that his deceased father was working as Police Sub-Inspector (P.S.I.) when he died on 05.05.2012. Learned Counsel for the Applicant argued that the post of P.S.I. is a group 'C' post on the basis of pay scale. As per G.R. dated 02.07.2002, those getting pay in a scale where maximum is upto Rs.9,000/- come in Group 'C'. The pay scale for the post of P.S.I. in the Fifth Pay Commission is Rs.5500-9000. As per G.R. dated 26.10.1994, the Applicant is, therefore, eligible to be considered for compassionate appointment. Learned Counsel

for the Applicant argued that the communication dated 25.07.2012 from the Respondent No.2 rejecting the request of the Applicant for compassionate appointment is bad in law and may be quashed and set aside.

4. Learned Presenting Officer (P.O.) argued on behalf of the Respondents that P.S.I. is a Group 'B' post. She argued that Government had issued notification on 30.04.2007 under Section 6 of the Maharashtra Government servants Regulation of Transfers and Prevention of Delays in Discharge of Official Duties Act, 2005 (Transfer Act) delegating powers to transfer various Government employees in Group 'A', 'B' and 'C'. This section has two categories of Group 'B' employees viz. Gazetted and non-Gazetted. As per the aforesaid notification, post of P.S.I. is included as Group 'B' non-gazetted post. Learned P.O. argued that once the post of P.S.I. is specifically recognized as Group 'B' post under the Transfer Act, there is no need to place reliance on a G.R. issued prior to that Act coming into force.

5. It is seen that the only issue which requires adjudication in this O.A. is whether the post of P.S.I. is a Group 'B' post or a Group 'C' post. The Applicant claims that is a Group 'C' post based on pay scales as per G.R. dated 02.07.2002. However, the Respondents claim that it is a Group 'B' post and have relied on the notification issued by the Government under Section 6 of the Transfer Act. This notification dated 30.04.2007 recognizes the post of P.S.I. as Group 'B' post. This notification has been issued under

Section 6 of the Transfer Act and has to be given precedence over G.R. dated 02.07.2002. As the deceased father of the Applicant was holding a Group 'B' post at the time of his death, the Applicant is clearly not eligible for compassionate appointment.

6. Having regard to the aforesaid facts and circumstances of the case, this Original Application is dismissed, with no order as to costs.

**Sd/-
(RAJIV AGARWAL)
VICE-CHAIRMAN**

**Place : Mumbai
Date : 18.11.2016
Typed by : PRK**