

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI

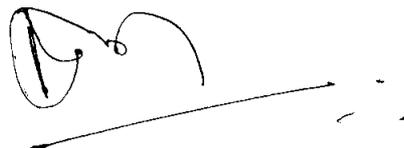
ORIGINAL APPLICATION NO.692 OF 2013

DISTRICT : THANE

Smt. Suchita w/o. Ranjan Ukirde. )  
Age : 55 Yrs. (Wife of the deceased Govt. )  
Servant) and R/o. A-101, Ratna Prabha )  
Building, Pandit Dini Dayal Cross Road, )  
Thakurwadi, Dombivali (W), )  
District : Thane. )...**Applicant**

**Versus**

1. The State of Maharashtra. )  
Through Secretary, )  
Dairy Development, )  
Animal Husbandry & Fisheries Dept,) )  
Mantralaya, Mumbai - 400 032. )
2. The Commissioner. )  
Dairy Development, )  
Administrative Building, Abdul )  
Gaffar Khan Marg, Worli, )  
Mumbai - 400 018. )
3. The General Manager. )  
Govt. Milk Scheme, Greater Mumbai,) )  
Worli, Mumbai 400 018. )...**Respondents**



**Mr. V.P. Potbhare, Advocate for Applicant.**

**Mr. D.B. Khaire, Special Counsel with Mr. N.K. Rajpurohit,  
Chief Presenting Officer for Respondents.**

**CORAM : RAJIV AGARWAL (VICE-CHAIRMAN)  
R.B. MALIK (MEMBER-JUDICIAL)**

**DATE : 03.02.2017**

**PER : R.B. MALIK (MEMBER-JUDICIAL)**

### **JUDGMENT**

1. This Original Application (OA) now survives for the benefit of the widow of the deceased Government employee who was removed from service for actionable absence from duty and it now remains confined to the issue of compassionate pension. The present Applicant is the widow of the late Mr. Ranjan Ukirde, who was Circle Inspector under the control of the Respondent No.3 – The General Manager, Govt. Milk Scheme. The Respondent No.1 is the State of Maharashtra in Dairy Development, Animal Husbandry and Fisheries Department and the 2<sup>nd</sup> Respondent is the Commissioner, Dairy Development.

2. We have perused the record and proceedings and heard Mr. V.P. Potbhare, the learned Advocate for the Applicant and Mr. D.B. Khaire, the learned Special



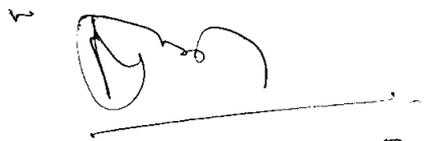
Counsel with Mr. N.K. Rajpurohit, the learned Chief Presenting Officer for the Respondents.

3. The record would show that late Mr. Ranjan Ukirde who shall now be described as the deceased employee remained absent from duty from 1993. The record shows that according to the present Applicant, her husband was suffering from serious health problems which made his movements difficult. There is some hint about his mental faculty also having been affected, but from Medical Certificate at Exh. 'G' (Page 36 of the Paper Book (PB)) issued by Dr. S.C. Sharma, nothing becomes clear. It reads as follows :

"29.11.96

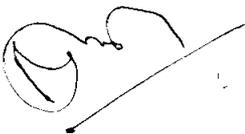
This is to certify that Mr. Ranjan G. Ukirde, M/46 is my old patient & has been taking treatment for the \_\_\_\_\_ ailment since July 2<sup>nd</sup> 1993."

This is the state of the medical document and in view of the fact that now the issue has become restricted as mentioned hereinabove, we do not propose to consider any action being taken in this matter because the deceased is

A handwritten signature in black ink, consisting of a stylized, cursive script. The signature is written above a horizontal line that extends to the right.

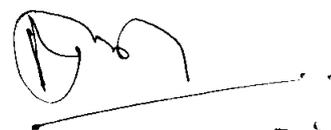
beyond us and if no action could be taken against him, we prefer not to take any action against the said Doctor also.

4. Be it as it may, ultimately, the departmental proceedings came to be initiated on 29.3.1996. According to the Respondents, the said deceased received the show cause notice but offered no explanation for his absence and by a somewhat detailed order of 18.6.2002 (Exh. 'H', Page 37 of the PB), the 3rd Respondent removed the said deceased from service. The operative part of the order in Marathi was, "आदेश:- श्री आर.जी. उकिर्डे, मंडळ निरीक्षक, कुर्ला यांना शासकिय सेवेतून दि.०२.०७.१९९३ म.पू.पासून काढून टाकण्यात येत आहे." By the said order, the said deceased was removed from service retrospectively. In view of the fact that the said deceased is now beyond us, we prefer not to closely examine the validity of such an order which removed him from service from an anterior date i.e. retrospectively. But we shall proceed on the basis that the said order would become effective from the date it was made on i.e. 18.6.2002. It was, thereafter, that the deceased employee on 10.3.2003 (Exh. 'I' collectively, Page 42 of the PB) applied for voluntary retirement. A wealth of medical documents apparently may have been annexed to his application or in any case, they are annexed to this OA. On 9<sup>th</sup> June, 2003, vide Exh. 'J' (Page 47 of the PB), the Respondent No.3 informed the said deceased that he had

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been absent from duty 10.3.2003 and that he came to be removed from duty w.e.f. 3.7.1993 which would mean that for all practical purposes, his application for voluntary retirement was turned down. However, it is equally clear that an application for voluntary retirement proceeds on a basic premise that the said Applicant was in Government service while here, the order of removal from service had not been challenged by the said deceased, and therefore, it is not necessary to closely examine the issue of voluntary retirement and also a few representations made thereafter.

5. The present Applicant, thereafter, brought OA 810/2011 wherein her application for condonation of delay was allowed and finally, by an order of 15.3.2013, this Tribunal presided over by the Hon'ble Vice-Chairman was pleased to permit withdrawal thereof with liberty to file a fresh OA and it was thereafter, that the present OA came to be filed. It is very clear that now, no issue can be decided which involved the said deceased. The above discussion must make this position quite clear. The only issue that now survives is with regard to the compassionate pension. Chapter VII of the Maharashtra Civil Services (Pension) Rules, 1982 deals with classes of pensions and conditions governing their grant. Rule 62 provides *inter-alia* the different classes of pensions. The 3<sup>rd</sup>

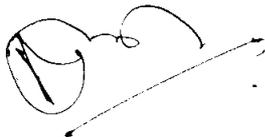


category is, "invalid pension, 4<sup>th</sup> category is compassionate pension, 5<sup>th</sup> category is wound or injury pension, 6<sup>th</sup> category is compassionate pension which is a pension granted to a Government servant who is removed from Government service for misconduct, insolvency or inefficacy. The 7<sup>th</sup> category is voluntary pension which means, the one admissible under Rule 116 of 1962 Rules and also includes 1950 Rules. Now as far as we are concerned, there is an express provision in Rule 101 which is compassionate pension. The same needs to be reproduced for facility.

**"101. Grant of Compassionate Pension in deserving cases by Government.-** (1) A Government servant who is removed from service shall forfeit his pension and gratuity:

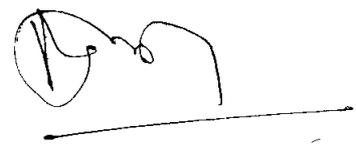
Provided that if the case is deserving of special consideration. Government may sanction a Compassionate Pension not exceeding two-thirds of pension or gratuity or both which would have been admissible to him if he had retired on compensation pension.

(2) A compassionate pension sanctioned under the proviso to sub-rule (1) shall not be less than the minimum pension as fixed by Government.

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(3) A dismissed Government servant is not eligible for compassionate pension.”

6. Now, the issue of the ultimate relief is a different matter but going by a communication from the 3<sup>rd</sup> Respondent to the CPO dated 26.11.2014 at Page 64 of the PB, it would become clear that the issue of compassionate pension was under consideration and the matter was submitted to the Government. It also appears that therein some information was given about the para-wise reply which would be a matter between him and the learned CPO. There is an Affidavit-in-reply filed on behalf of the Respondents 1, 2 and 3 by Mr. Ramesh L. Jadhav, Deputy Director (Admn.) in the office of the 3<sup>rd</sup> Respondent. In Para 24 thereof, it is mentioned that the present Applicant submitted her representation dated 5.8.2014 to the office of the 2<sup>nd</sup> Respondent – Commissioner, Dairy Development and the said representation was under process. There is what has been described as an Additional Affidavit-in-reply on behalf of the Respondents. That Affidavit is filed by Mr. Dharampal M. Barmase, Deputy Director (Admn) in the office of the 3<sup>rd</sup> Respondent. Although Para 7 thereof tends to suggest that the application of the present Applicant was rejected as unfit and a reference was made to Exh. 'R-1 which is dated 15.4.2015, but it quite clearly appears that there was no such final rejection. We are not



particularly happy with the ease with which a statement is made in the Affidavit which is not borne out from the document, and therefore, we would have to burden this Judgment with the reproduction verbatim of Exh. 'R-1' in Marathi.

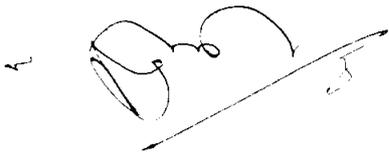
“प्रति, आयुक्त,  
दुग्धवसाय विकास विभाग,  
वरळी, मुंबई-१८.

विषय:- श्री. रंजन गेनू उकीर्डे, मंडळ निरीक्षक, कुर्ला दुग्धशाळा (दि.२०.०५.२०११ रोजी मयत) यांच्या पत्नीला अनुकंपा निवृत्ती वेतन मिळणेबाबत.

संदर्भ:- आपल्या कार्यालयाचे पत्र क्र.आदुवि-१५(३)प्र.क्र.०१/२००१५/  
श्री.रंगेउ/मंनि/अनुकंपा/निवृत्तीवेतन/२०१५/१२१,दि.०७.०१.  
२०१५ चे पत्र.

उपरोक्त विषयावरील आपला कार्यालयाचे संदर्भाधिन दि.०७.०१.२०१५ चे पत्र कृपया पहावे.

संदर्भाधिन पत्रान्वये महाराष्ट्र नागरी सेवा (निवृत्ती वेतन) नियम १९८२ मधील नियम १०१ (१) नृसार दिवंगत श्री रंजन गेनू उकीर्डे यांचे प्रकरणी त्यांच्या वारसदार पत्नी श्रीमती सुचिता रंजन उकीर्डे यांना अनुकंपा निवृत्ती वेतन मंजूर करण्यास मान्यता देण्याचा प्रस्ताव शासनास सादर करण्यात आलेला होता. सदर प्रस्ताव वित्त विभागास सादर केला असता त्या विभागाने श्रीमती सुचिता रंजन उकीर्डे, महाराष्ट्र प्रशासकीय न्यायाधिकरण येथे दाखल केलेल्या मुळ अर्जाबाबत दिलेल्या अभिप्रायानुसार यथायोग्य प्रत्युत्तर व स्पेशल कॉन्सिल नियुक्त करण्याची शिफारस केलेली आहे. वित्त विभागाने दिलेल्या अभिप्रायाची प्रत सोबत जोडून पाठविण्यात येत आहे. सदर अभिप्रायानुसार उपरोक्त मुळ अर्जाबाबत आपल्या स्तरावरून तात्काळ आवश्यक ती कार्यवाही करण्यात यावी.”



सही/-  
(मिलिंद शेणॉय)  
कक्ष अधिकारी, महाराष्ट्र शासन.”

7. It must have become clear that by no stretch of imagination, can it be said that the said move was still not pending. In fact, it was very much pending, and therefore, while the matter in so far as the said deceased is concerned, it is still pending and this OA will have to be disposed of with directions to decide the said matter within a period of two months from today. This Original Application is disposed of with direction to the Respondents to decide the issue of compassionate pension of the Applicant within a period of two months from today after a sympathetic consideration of her case. No order as to costs.



Sd/-

**(R.B. Malik)**  
**Member-J**  
**03.02.2017**

Sd/-

**(Rajiv Agarwal)**  
**Vice-Chairman**  
**03.02.2017**

Mumbai

Date : 03.02.2017

Dictation taken by :

S.K. Wamanse.

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