

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD

ORIGINAL APPLICATION NO. 748 OF 2013

DISTRICT: - AHMEDNAGAR.

Yogesh S/o Ganesh Wandre
Age-26 years, Occ-Unemployed,
R/o. Block No. 54/5, Gajanan Housing
Colony, New Mukundnagar,
Ahmednagar, Tq. & Dist. Ahmednagar. .. APPLICANT.

VERSUS

1. The State of Maharashtra

(Copy to be served on C.P.O.
Maharashtra Administrative Tribunal,
Bench at Aurangabad.)
2. The Divisional Commissioner,
Nashik Division, Nashik,
Tq. & Dist. Nashik.
3. The Collector, (Revenue Branch),
Ahmednagar, Tq. & Dist. Ahmednagar,
4. The Sub Divisional Officer,
Ahmednagar Division, Ahmednagar,
Tq. & Dist. Ahmednagar.
5. The Tahsildar, Parner,
Tq. Parner, Dist. Ahmednagar. .. RESPONDENTS.

APPEARANCE : Shri C.V. Bhadane – learned
Advocate for the applicant.

: Smt. Resha S. Deshmukh – learned
Presenting Officer for the
respondents.

CORAM : **HON'BLE SHRI J.D. KULKARNI,**
MEMBER (J)

J U D G M E N T

[Delivered on 22nd September, 2016]

The applicant viz. Yogesh S/o Ganesh Wandre, is claiming appointment on compassionate ground and direction to that effect to respondent No. 3 i.e. the Collector, (Revenue Branch), Ahmednagar. He is also claiming that the impugned letter dated 28.10.2013 issued by the Collector rejecting his claim for appointment on compassionate ground in Class-III category be quashed and set aside.

2. Applicant's father Ganesh Wandre, was serving as a Talathi in the office of respondent No. 5 i.e. Tahsildar, Parner. He died on 7.6.2010. The applicant has mother and she is serving as a Health Assistant (Nurse). However, from his childhood the applicant is residing separate from his mother.

3. On 16.6.2010 the applicant filed an application for appointment on compassionate ground due to death of his father. In fact, the applicant's claim was considered and he was also kept in the waiting list of the candidates to be appointed on compassionate ground. However, vide impugned communication dated 28.10.2013 the applicant's claim was rejected. The said impugned communication dated 28.10.2013 reads as under: -

“अनुकंपा तत्वावर नियुक्ती मिळणेबाबतचा आपला प्रस्ताव उपविभागीय अधिकारी, नगर भाग अहमदनगर यांनी पत्र क्र. कावि.५/आस्था/९४५/२०१३, दि. २/२/२०१३ अन्वये या कार्यालयास सादर केला आहे. सदर प्रस्तावाची छाननी केली असता, तुमच्या आई श्रीमती प्रणलता गणेश वांद्रे या आरोग्य सेविका म्हणून जिल्हा परिषद सेवेत कार्यरत असलेबाबत आपल्या प्रतिज्ञापत्रात नमुद केलेले आहे.

तसेच सामान्य प्रशासन विभाग, मंत्रालय, मुंबई यांचेकडील शासन निर्णय क्र.अकंपा.१०९३/२३३५/प्र.क.९०/९३/आठ, दि. २६/१०/१९९४ च्या नियमावलीतील नियम ७ (ब) मधील तरतुदीनुसार, प्रस्तुत प्रकरणाची शहानिशा करण्यासाठी दिनांक २४/१०/२०१३ रोजी सुनावणी घेण्यात आली. सदर सुनावणीचेवेळी तुमच्या आई तुमच्यापासून विभक्त रहात असलेबाबत कायदेशीर ठोस पुरावा सादर केलेला नाही. त्यामुळे उक्त शासन निर्णयातील तरतुदीनुसार अनुकंपा तत्वावर नियुक्ती मिळणेबाबतची आपली विनंती अमान्य करण्यात येत आहे.

सही/-

जिल्हाधिकारी अहमदनगर”

4. The respondent Nos. 2 & 3 have resisted the claim of the applicant. The sum and substance of the affidavit in

reply is that the enquiry was made and in the said enquiry it was noticed that the applicant was residing with his brother, sister and mother jointly and in order to get appointment on compassionate ground the applicant made a false claim that he is residing along with his uncle. The applicant also deleted his name from the ration card from his family and got included his name in the ration card of his uncle on 26.11.2010 i.e. after filing of the application for appointment on compassionate ground. It is stated that the applicant's claim was not fit to be considered for compassionate appointment and, therefore, it was rejected.

5. Heard Shri C.V. Bhadane – learned Advocate for the applicant and Smt. Resha S. Deshmukh – learned Presenting Officer for the respondents. I have also perused the application, affidavit, affidavit in reply filed by the respondents and various documents placed on record by the respective parties.

6. The only material point to be considered is whether the communication dated 28.10.2013 is legal and proper?

7. On perusal of the impugned communication dated 28.10.2013 as reproduced earlier, it seems that the application was rejected on the ground that the applicant's mother Smt. Pushplata Ganesh Wandre, was serving as Health Assistant (Nurse). It further seems from the said communication that the Collector, Ahmednagar was pleased to direct an enquiry to verify whether the applicant was residing separate from his mother or not and in the said enquiry it was noticed that he was not residing separate from his mother and, therefore, the application was rejected.

8. The respondents in paragraph No. 7 of their affidavit in reply have stated as under: -

“7) As regards Para No. 2 to 4, I say and submit that, the contents of the applicant that his father was in services in the office of respondent No. 5 as Talathi and died on 07/06/2010 are true however, rest of the contents of the para are not true and correct and not admitted to these respondents. When the applicant initially has submitted

his application on 19/06/2010 along with schedule “B” it appears from clause no. 4 of the said schedule that the applicant resides along with his mother, Brother and sister jointly. The said fact has been verified and signed by the applicant himself at the foot of the said schedule “B”. Therefore, the contention of the applicant that his mother is living separately from the father of the applicant is not true and correct.”

9. In paragraph Nos. 9 & 10 of the affidavit in reply, the respondents have stated as under: -

“9) As regards Para No. 6 I say and submit that, the rule no. 7 (b) of schedule A of G.R. dated 26/10/1994 reads as under, 7 (b)
“अनुकंपा तत्वावर नियुक्ती देतांना असे प्रस्ताव शासनसेवेतील रोजगारावर असलेली मर्यादा या योजनेच्या मागील भूमिका लक्षात घेऊन जो कर्मचारी मृत झाला त्याच्या कुटुंबियांना तात्काळ उदभवणा-या आर्थिक पेचप्रसंगावर मात करण्याच्या उद्देशाने विचारात घ्यावेत.

एखादया कुटुंबात मृत कर्मचा-यांचा नातेवाईक पूर्वीच सेवेत असेल, तथापी तो त्याच्या कुटुंबातील अन्य सदस्यांना आधार देत नसेल तर अशा प्रकरणात त्या कुटुंबाची आर्थिक परिस्थिती हालाखीची आहे किंवा कसे हे ठरविताना नियुक्ती अधिका-याने अत्याधिक दक्षता घ्यावी जेणेकरून सेवेत असलेला सदस्य कुटुंबाचा उदरनिर्वाह करीत नाही या नावाखाली अनुकंपा तत्वावरील नियुक्तीचा दुरुपयोग केला जाणार नाही.

या संदर्भात नियुक्ती अधिका-याने मिळणा-या निवृत्तिवेतनाची रक्कम, कुटुंबातील व्यक्तींची संख्या, त्याची मालमत्ता, दायित्व, गंभीर आजारांमुळे किंवा अपघातांमुळे मृत झाला असल्यास त्यासाठी करण्यात आलेला वैद्यकीय खर्च, कुटुंबातील मिळवत्या व्यक्ती इत्यादी बाबी विचारात घेणे अपेक्षित आहे.

In view of the above position the case of the applicant does not cover under and for the appointment of compassionate ground. Mere filing of the affidavits by the applicant and by members of the family does no create any right for giving the appointment on compassionate ground. No where in the affidavits it has been stated or cleared that, the mother of the applicant is not giving support to the applicant and other family members, nor there is any whisper in the affidavits about the financial condition of the applicant and his family members.

“10) As regards Para No. 7 & 8, I say and submit that, even though the reports and communications issued by the respondent No. 5, respondent No. 4 and other revenue officers the case of the applicant does no cover under rule no. 7 (b) of schedule A of G.R. dated 26/10/1994. Moreover, it appears from the relevant record received from the Food-grain Distribution Officer, Ahmednagar that the applicant has created

and prepared the record with some ulterior motive and to grab the benefits from the respondent authorities. The father of applicant is died on 07/06/2010. The Ration Card no. 082139 having reference no. 465 shows that the head of the family is Ganesh Murlidhar Wandre (i.e. father of applicant) consisting of total 8 members including Pushpalata Wandre (i.e. mother of the applicant) and Yogesh Wandre (i.e. present applicant) and Kishor Wandre (i.e. uncle of applicant). There after it appears that on 28/02/2007 the duplicate Ration Card No. W.G. 247265 have been issued in the name of above mentioned 8 persons. After the death of Ganesh Wandre his name was deleted from Ration Card No. W.G. 247265. Further it appears that, on 11/12/2009 the name of Kishor Wandre has been deleted from Ration Card No. W.G.247265 and the concern authority issued separate Ration Card in the name of Kishor Wandre by no. S.J. 39789 having reference no. 1148. On 26/11/2010 the name of present applicant has been deleted from W.G. 247265 and incorporated in the Ration Card No. S.J. 39789 having reference No. 1148. In which the uncle of the

applicant is head of the family. That means the name of applicant has been incorporated in the ration card of his uncle on 26/11/2010 which is after the death of the father of the applicant. It also transpires from the record that neither there is any concrete evidence to show that the mother of applicant is residing separately from the applicant and other members, nor there is any evidence to show that he applicant is residing with his uncle since his childhood. It also appears that, the name of the mother of the applicant i.e. Pushpalata Wandre is still in the earlier Ration Card No. W.G. 247265.

The letter issued by respondent No. 3 to Food-grain Distribution Officer, Ahmednagar, calling information of Ration Card is marked herewith at Exh. R.1 and the copy of report received from the Food-grain Distribution Officer, Ahmednagar is marked herewith at Exh. R-2, collectively.”

10. The applicant has not filed rejoinder affidavit to deny the contents of the reply affidavit as referred above. The affidavit in reply filed by the respondent Nos. 2 & 3 is

supported by the documentary evidence at page Nos. 61 to 64 (both inclusive). From the said documents it is clear that after filing of the application for compassionate appointment the applicant got his name deleted from the ration card of his father and mother and got included his name in the ration card of his uncle Shri Kishor Murlidhar Wandre. This must have been done only with an intention to show that the applicant's mother was not taking his care and just to show that he was entitled to claim appointment on compassionate ground. This exercise is after thought. The respondent authorities have made enquiry as regards the financial conditions of the applicant, as well as, the fact as to whether he resides with his mother or not and on merits it came to the conclusion that the applicant was not entitled to claim appointment on compassionate ground.

11. The learned Presenting Officer has also given reference of judgment of Hon'ble Supreme Court of India Civil Appellate Jurisdiction in the case of **SANTOSH KUMAR DUBEY VS. THE STATE OF U.P. & Ors. in Civil**

Appeal No. 1955 of 2003, wherein it is observed that,” the request for appointment on compassionate grounds should be reasonable and proximate to the time of the death of the bread earner of the family, inasmuch as the very purpose of giving such benefit is to make financial help available to the family to overcome sudden economic crisis occurring in the family of the deceased who has died in harness. But this, however, cannot be another source of recruitment. This also cannot be treated as a bonanza and also as a right to get an appointment in Government service”.

12. In view of the discussion in foregoing paragraphs, I do not find any merit in the applicant’s claim. Hence, I pass the following order: -

ORDER

The present original application stands dismissed with no order as to costs.

MEMBER (J)