

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**

**ORIGINAL APPLICATION NO.1029/2023 (S.B.)**

Hritika D/o Narendra Bhuskade,  
Aged about 20 years, Occupation: Student,  
Resident of C/o Dr. Vinod Tembhare,  
Near S.B.I. Bank, Walgaon,  
Tahsil and District : Amravati 444 801.

... **APPLICANT**

**// V E R S U S //**

- 1] The State of Maharashtra,  
Through its Secretary,  
Department of Vocational Education & Training,  
Mantralaya, Mumbai.
- 2] The Director of Vocational Education & Training,  
Maharashtra State, Mumbai.
- 3] The Deputy Director of Vocational Education & Training,  
Amravati, Morshi Road, Amravati.
- 4] The Collector, Amravati.

... **RESPONDENTS**

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**Shri S.Pande, Id. Advocate for the Applicant.**

**Shri A.P.Potnis, Id. P.O. for the Respondents.**

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**Coram :- Hon'ble Shri M. A. Lovekar, Member (J).**

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## **J U D G M E N T**

**Judgment is reserved on 19/11/2024.**

**Judgment is pronounced on 12/12/2024.**

Heard Shri S.Pande, learned counsel for the applicant and Shri A.P.Potnis, learned P.O. for the respondents.

2. Father of the applicant who was holding the post of Craft Instructor died in harness on 26/06/2013 whereupon mother of the applicant applied on 17/09/2013 for appointment on compassionate ground. Mother of the applicant was on the verge of completing 45 years of age whereupon she would have been rendered ineligible for appointment on compassionate ground. The applicant attained majority on 12/06/2021. On 01/09/2021 she submitted application (Annexure A-1) for appointment on compassionate ground. By the impugned communication dated 07/10/2021 (Annexure A-2) the applicant was informed as follows:-

“सामान्य प्रशासन विभाग, शा.नि.क्र. अकंपा-१०००/प्र.क्र.२०/२०००/आठ, दि.२८/०३/२००१ मधील परीशिष्ट-फ नुसार गट-क व गट-ड मधील कर्मचाऱ्यांच्या कुटुंबियांना अनुकंपा तत्वावरील नियुक्ती अनुज्ञेय आहे. परंतु सामान्य प्रशासन विभाग, शा.नि.क्र. एसआरव्ही-१०८८/प्र.क्र.२/१३/८८/ बारा, दि.२९/०७/१९९३ व सामान्य प्रशासन विभाग, शा.नि.क्र. एसआरव्ही-१०९८/१६४४/प्र.क्र.२/९९/बारा, दि.

०२/०७/२००२ तसेच संदभाकीत शासन निर्णय क्र.२ नुसार ५५००-९००० या वेतनश्रेणीतील पदांचे वर्गीकरण गट-ब (अराजपत्रित) मध्ये करण्यात आलेले आहे. तसेच, शा.नि.क्र. टिएसए-१००३/(३२८७)/व्यशि-४, दि. १७/०१/२००४ नुसार शिल्पनिदेशकांना ५५००-१००० ही सुधारीत वेतनश्रेणी दि. ०१/०१/१९९६ पासून लागू केलेली असल्यामुळे शिल्पनिदेशक हे पद या बाबीकरीता गट-ब (अराजपत्रित) मध्ये मोडत असल्यामुळे श्रीमती वनिता नरेंद्र भुस्कंडे यांना किंवा इतर वारसांना अनुकंपा तत्वावरील नियुक्ती अनुज्ञेय ठरत नाही.

संदर्भ ११ अन्वये गट अ आणि गट ब मधील शासकीय कर्मचा-यांना सेवेत असतांना दिवंगत झाल्यास कुटुंबातील पात्र सदस्यास अनुकंपा नियुक्ती कोविडच्या पाश्र्वभूमीवर दि. १ जानेवारी २०२० पासून अनुज्ञेय करण्यात आलेली आहे. आपले प्रकरण हे त्यापुर्वीचे म्हणजेच २०१३ मधील आहे.

तसेच कळविण्यात येते की, वारस अज्ञान असल्यास सज्जन झाल्यानंतर १ वर्षाचे आंत अर्ज सादर करणे आवश्यक आहे. तत्कालीन वेळी आपली आई श्रीमती वनिता नरेंद्र भुस्कंडे यांनी स्वतः ला नोकरी मिळणे बाबत अर्ज सादर केलेला असल्यामुळे आता नव्याने आपला अर्ज स्विकारता येणार नाही. आपले वडिलांचे जागेवर त्यावेळी आपले आईने आपल्या करीता जागा राखून ठेवण्याकरीता अर्ज सादर केला असता तरी शिल्पनिदेशक हे पद या बाबीकरीता गट-ब (अराजपत्रित) मध्ये मोडत असल्यामुळे आपणास अनुकंपा तत्वावरील नियुक्ती अनुज्ञेय ठरली नसती. त्यामुळे उक्त नमुद स्थितीनुसार आपले नावं अनुकंपा यादीमध्ये समाविष्ट करता येणार नाही.”

Hence, this Original Application.

3. Stand of Respondent Nos. 2 to 4 is as follows. With effect from 01/01/1996 pay scale of deceased father of the applicant was revised to Rs. 5500-9000/- which was a pay scale of

group classified as Group B (Non-Gazetted) as per G.Rs. dated 29/07/1993, 02/07/2002 and 17/01/2004. As per G.R. dated 28/03/2001 issued by G.A.D., Government of Maharashtra dependents of only Group C and Group D employees were eligible for appointment on compassionate ground.

4. It is the contention of the applicant that her case for appointment on compassionate ground deserves to be considered as per G.R. dated 27/09/2021 issued by G.A.D., Government of Maharashtra which provides for appointment on compassionate ground to dependents of Group A and Group B employee as well.

5. It would be useful to recapitulate some relevant facts. Father of the applicant was working as Craft Instructor. He was fixed in a pay scale of Rs.5500-9000/- w.e.f. 01/01/1996 as per G.R. dated 17/01/2004. As per G.R. dated 02/07/2002 this pay scale was payable to Group B (Non-Gazetted) Post. As per G.R. dated 28/03/2001 only dependents of Group C and Group D employees were eligible for appointment on compassionate ground. Father of the applicant died in harness on 26/06/2013 whereupon mother of the applicant applied for appointment on compassionate ground. According to the applicant, her mother

submitted affidavit that in her place her daughter, the applicant be considered for appointment on compassionate ground and then the applicant submitted application for appointment on compassionate ground.

6. In the impugned order two grounds of rejection were mentioned –

- (1) Substitution of name of mother of the applicant by that of the applicant was not permissible; and
- (2) The applicant could not be considered for appointment on compassionate ground as per prevailing G.Rs. because her father was holding a Group B post and at the time of his death G.R. dated 28/03/2021 was applicable.

So far as the first ground is concerned, it cannot be sustained in view of the Judgment dated 28.05.2024 of Full Bench of the Hon'ble Bombay High Court (*Kalpana Taram Vs. State of Maharashtra with connected Writ Petitions*). In this Judgment it is held that substitution of one dependent by another dependent of the deceased for securing appointment on compassionate ground is permissible.

So far as the second ground is concerned, at the time of his death on 26/06/2013 father of the applicant was holding a post which was classified as a Group B post on the basis of pay scale made applicable thereto. At this point of time G.R. dated 28/03/2001 was holding the field which stipulated that dependents of only Group C and Group D employees were eligible for appointment on compassionate ground. However, subsequently a G.R. was issued on 27/09/2021 which stated-

**“शासन निर्णय :**

दिनांक २६ ऑगस्ट, २०२१ रोजीच्या मा. मंत्रिमंडळाच्या बैठकीमध्ये झालेल्या निर्णयानुसार खालीलप्रमाणे आदेश देण्यात येत आहेत:-

अ) गट-क व ड मधील शासकीय कर्मचाऱ्यांप्रमाणे, अनुकंपा तत्वावर नियुक्तीचे धोरण, गट- अ आणि ब मधील शासकीय कर्मचाऱ्यांना लागू करण्यात येत आहे. त्यानुसार शासकीय सेवेत असताना गट-अ व गट-ब मधील दिवंगत झालेल्या कर्मचाऱ्यांच्या कुटुंबातील पात्र सदस्यास गट-क व गट-ड मध्ये अनुकंपा नियुक्ती अनुज्ञेय करण्यात येत आहे

ब) कोविडच्या प्राश्वभूमीवर सदर योजनेचा लाभ हा दिनांक १ जानेवारी, २०२० पासून अनुज्ञेय करण्यात येत आहे.”

According to the respondents, since cause of action to apply for appointment on compassionate ground arose on death of father of the applicant i.e. on 26/06/2013, the applicant cannot base her claim on the G.R. which was subsequently issued on

27/09/2021. To counter this contention the applicant has placed on record wait list for appointment on compassionate ground as on 31/05/2021. This wait list is at Annexure A-3. Perusal of said wait list shows that dependents of employees fixed in the pay scale of Rs.5500-9000/-, and more are considered eligible for appointment on compassionate ground though death of the concerned employee had occurred prior to the cut-off date 01/01/2020 given in G.R. dated 27/09/2021. Thus, the applicant has made out a case for issuing necessary directions to the respondents to extend benefit of parity to her. The respondents are directed to consider case of the applicant on par with those of the wait listed candidates who are dependents of employees who were drawing salary in the pay scale of Rs.5500-9000/-, or more. This exercise shall be completed within two months from today. **O.A. is allowed in these terms with no order as to costs.**

**Member (J)**

**Dated :-12/12/2024.**  
**PRM.**

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : Piyush R. Mahajan.

Court Name : Court of Hon'ble Member (J).

Judgment signed on : 12/12/2024  
and pronounced on

Uploaded on : 13/12/2024