MAHARASHTRA ADMINISTRATIVE TRIBUNAL

NAGPUR BENCH NAGPUR

ORIGINAL APPLICATION NO.73/2024 (S.B.)

Santosh Shankar Nalli,
Aged about 33 years, Occ. Nil,
R/o Sironcha Tah. Sironcha Dist. Gadchiroli

... **APPLICANT**

// V E R S U S //

1] The State of Maharashtra,
Through its Secretary,
Department of General Administration,
Mantralaya Mumbai – 32.

2] The Collector, Gadchiroli,
Collector Office, Tah and Dist. Gadchiroli.

3] Superintendent Engineer,
Public Work Department, Gadchiroli.

... **RESPONDENTS**

Shri V.A. Dahiwale, ld. Advocate for the Applicant.

Shri A.P. Potnis, ld. P.O. for the Respondents.

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

J U D G M E N T

Judgment is reserved on 22/11/2024.

Judgment is pronounced on 13/12/2024.

Heard Shri V.A. Dahiwale, learned counsel for the applicant and Shri A.P. Potnis, learned P.O. for the respondents.

2. Shankar Nalli, father of the applicant was working as a labourer in P.W.D. He went missing on 18/09/2000. His wife, mother of the applicant lodged a missing report on 18/10/2000 with Police. The applicant attained majority on 07/10/2008. He applied for appointment on compassionate ground on 11/11/2008. He re-applied on 04/06/2009 (Annexure A-1) alongwith necessary documents. On 18/06/2009 proposal (Annexure A-2) was forwarded by Executive Engineer, Allapalli to Superintending Engineer, Chandrapur to appoint the applicant on compassionate ground. By letter dated 11/09/2014 (Annexure A-6) respondent No.2 sought clarification from respondent No.3 whether the applicant was eligible for appointment on compassionate ground as his father was reported missing, and not dead.

By letter dated 17/11/2016 (Annexure A-7) respondent No.3 forwarded proposal to respondent No.2 to enter name of the applicant in the wait list. By letter dated 08/11/2023 (Annexure A-10) the applicant put forth his grievance before respondent No.2 that his case was governed by G.R. dated 06/10/1993 and not

by G.R. dated 22/08/2005 as was wrongly presumed by respondent No.2. By the impugned communication (Annexure A-12) respondent No.2 informed the applicant as follows:-

> *"विषय :- अनुकंपा अंतर्गत प्राप्त तक्रारीच्या अनुषंगाने अहवाल सादर करण्याबाबत.*
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> *संदर्भ :-१. मा. विभागीय आयुक्त नागपूर विभाग, नागपूर यांचे कार्या.पत्र क्र.मशा/कार्या-६/(५)/आस्था/सीआर-४८/२०२३/ कावि-५६२/२०२३ दिनांक ४ डिसेंबर, २०२३*
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> *२. मा. उपायुक्त (रोहयो) तथा अनुकंपा नोडल अधिकारी, नागपूर विभाग, नागपूर यांचे कार्या. पत्र क्र. मशा/कार्या-६(५)/आस्था/सीआर-२४/२०२३/कावि-५८७/ २०२३ दिनांक ११ डिसेंबर, २०२३*
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> *उपरोक्त विषयाचे अनुषंगान्वये आवेदक श्री संतोष शंकर नल्ली रा. वार्ड नं.१४ सिरोंचा ता.सिरोंचा जि.गडचिरोली यांनी सन २०१४ च्या प्रतिक्षायादीमध्ये नांव समाविष्ठ करण्यात येवून आवेदकास तात्काळ अनुकंपा तत्वावर नोकरी देण्याबाबतचे निवेदन मा. विभागीय आयुक्त नागपूर विभाग, नागपूर यांचेकडून या कार्यालयास प्राप्त झालेला आहे.*
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> *त्याअनुषंगाने आपणास कळविण्यात येते की, अनुकंपा नियुक्तीसाठी जिल्हाधिकारी कार्यालय यांच्याकडील सामायिक प्रतीक्षासूचीबरोबरच संबंधित नियुक्ती प्राधिका-यांनी त्यांच्या कार्यक्षेत्राकरिता गट-क व गट-ड करीता प्रतिक्षासूची ठेवण्याची दुहेरी प्रतीक्षासूचीची कार्यपध्दती शासन निर्णय दिनांक २२ ऑगस्ट, २००५ मध्ये नमुद करण्यात आलेली असल्याने गट-क व गट-ड मधील पदांवरील नियुक्तीसाठी सक्षम नियुक्ती प्राधिकारी (कार्यालय किंवा*

विभाग प्रमुख इत्यादी) त्यांच्या कार्यक्षेत्रातील उपलब्ध गट-क व गट-ड च्या रिक्त पदांवर पदांसाठी विहीत अटी व शर्ती पूर्ण करणा-या उमेदवारांना त्यांच्या कडील प्रतीक्षासूचीतील क्रमानुसार नियुक्ती करू शकतील.

तसेच शासन परिपत्रक दिनांक ५.२.२०१० अन्वये, जोपर्यंत अनुकंपा नियुक्तीकरीता आवश्यक असलेली सर्व कागदपत्रे उमेदवारांकडून प्राप्त होत नाहीत तोपर्यंत त्यांचे नांव प्रतीक्षासूचीमध्ये समाविष्ट करता येणार नाही. ज्यादिवशी संपूर्ण कागदपत्रे प्राप्त होतील त्यादिवशीच त्यांचे नाव प्रतिक्षासूचीमध्ये समाविष्ट करावे असे नमुद आहे. त्यामुळे सदर आपला प्रस्ताव हा दिनांक १९.११.२०१६ रोजी या कार्यालयास प्राप्त झाल्यामुळे त्यादिवसापासूनच आपली अनुकंपा सामायिक ज्येष्ठता यादीमध्ये नाव नोंदविण्यात आलेले आहे. सबब आपला निवेदन यासह नस्तीबध्द करण्यात येत आहे."

Principal prayer made by the applicant reads thus:-

"a)(i) Quash and set aside the communication dated 18/12/2023 issued by the respondent no. 2 at Annexure A-12, and further pleased to direct the respondent no. 2 for fixing seniority of the applicant in the list of candidates eligible for appointment on compassionate ground at Annexure A9 w. e. f. 20/07/2009 instead of 19/11/2016.""

Hence, this Original Application.

3. Stand of Respondent No.3 is as follows:-

"It is submitted that the Respondent No.3 vide its letter dated 17.11.2016 has re-submitted the proposal to the Respondent No.2 under intimation to the applicant by stating that the father of the applicant was in service of PWD on 18/10/2000 the date of his disappearance. As per Government Resolution dated 05/07/1991 a missing employee cannot be

presumed to be dead except on expiry of seven years from his disappearance. Thereafter learned Civil Court, Sironcha ordered that applicant's missing father declared dead on 29.04.2016 annexed herewith and marked as Annexure R-3

It is submitted that the copy of the letter dated 17/11/2016 sent by Respondent No.3-Superinteindent Engineer Public Works Circle, Gadchiroli to the Collector Gadchirolli is annexed herewith and marked as Annexure R-4.

It is submitted that after satisfying with the queries answered by the Respondent No.2 Superintending Engineer Public Work Department, the Collector Gadchiroli vide its letter dated 07.03.2017 has enrolled the applicant in the common waiting list maintained for the purpose of compassionate appointment in the office of the Collector Gadchiroli with effect from 19.11.2016 under intimation to the applicant. A copy of the letter dated 07.03.2017 issued by the Collector, Gadchiroli is annexed herewith and marked as AnnexureR-5"

4. The applicant is relying on G.R. dated 06/10/1993. On this point pleading of respondent No.3 is as follows:-

"It is submitted that the Government in General Administration Department vide Government Resolution dated 06.10.1993 has issued the guidelines for giving appointment on compassionate ground to the Legal Heirs of deceased/missing Government employees. The said Government Resolution dated 06.10.1993 has been superseded by the Government Resolution dated 26.10.1994. In Appendix "B" para no.2 the provisions are as under:-

"खालील प्रकारांमध्ये मोडणा-या शासकीय कर्मचा-यांचे (रूपांतरित स्थायी व अस्थायी आस्थापनेवरील कर्मचारी धरून) ३ (अ) येथील नातेवाईक या नियमानुसार अनुकंपा कारणास्तव शासकीय सेवेत नेमणुकीसाठी पात्र असतील:-

(अ) शासकीय सेवेत असताना दिवंगत झालेले कर्मचारी,

(ब) क्षय, कर्करोग इत्यादी गंभीर आजारामुळे, सक्षम वैद्यकीय अधिका-यांच्या प्रमाणापत्रानुसार अकाली निवृत्त झालेले अधिकारी/कर्मचारी,

(क) मानसिक किंवा शारीरिक विकलांगता झाल्याने, सक्षम वैद्यकीय अधिका-यांने पुढील सेवेसाठी अक्षम ठरविल्याने, अकाली विवृत्त करण्यात आलेले किंवा वरील कारणास्तव सेवेतून काढून टाकण्यात आलेले कर्मचारी,

ड) शासकीय सेवेत कर्तव्य बजावीत असतांना अपघाताने अपंग झालेले परंतु महाराष्ट्र नागरी सेवा (निवृत्तिवेतन) नियम, १९८२ मधील नियम ७२ (३) अनुसार पर्यायी पद देऊ करूनही ते न स्वीकारता सेवानिवृत्ती कर्मचारी,"

5. By Judgment dated 29/04/2016 (Annexure R-3) Civil Court granted declaration in respect of Civil Death of father of the applicant. Considering this aspect as well as admitted facts discussed above, the applicant would not be entitled to relief prayed for by him. **The O.A. is accordingly dismissed with no order as to costs.**

Member (J)

Dated :-13/12/2024.
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 and pronounced on	:	13/12/2024
Uploaded on	:	14/12/2024