

MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI
BENCH AT AURANGABAD.
DIST. BEED.

ORIGINAL APPLICATION NO.298/2014.

Kavita w/o Champalal Dhangar,
Age 26 years, Occ. Household,
R/o Wardi Tq. Chopda, Dist. Jalgaon.

-- APPLICANT.

V E R S U S

1. The State of Maharashtra,
Through Secretary,
Home Department,
Mantralaya, Mumbai.
(Copy to be served on
C.P.O., Maharashtra Administrative
Tribunal, Bench at Aurangabad.)
2. The Superintendent of Police,
Office of Police Superintendent,
Jalgaon Tq. & Dist. Jalgaon.

-- RESPONDENTS.

APPEARANCE : Shri B.A. Dhengle, learned Advocate
for the Applicant.

: Shri SK Shirse, Learned Presenting
Officer for Respondents.

CORAM : Hon'ble Shri JD Kulkarni, Member (J).

DATE : 04.10.2016.

ORAL ORDER.

1. Heard Shri B.A. Dhengle, learned Advocate for the Applicant and Shri S.K. Shirse, learned Presenting Officer for the Respondents.

2. Vide impugned order dated 6.9.2010 at paper book page no.23 (Exh.F) issued by the Superintendent of Police, Jalgaon, who is Respondent no.2 in this case, the Applicant's claim for appointment on compassionate ground was rejected. The reason for rejection of claim is a technical one that the application has not filed application within one year from the date of death of employee, as per G.R. dated 22.8.2005 and that there was delay of six months in filing the application.

3. The applicant's husband Champalal Dhangar was serving as a Police Constable in the office of Respondent no.2 and he died on 4.5.2008 in the accident. Applicant was under mental shock and therefore, she could not file the application immediately or in any case within one year from the death of her husband. Ultimately, she filed application on 29.10.2009. She has narrated the reasons

as to why there was delay in filing the application claiming appointment on compassionate ground. However, the learned Superintendent of Police without application of mind seems to have rejected the application on technical grounds, as already stated.

4. The most of the facts as regards eligibility of the applicant to apply on compassionate ground are admitted. It is also admitted that, the applicant has approached the Hon'ble High Court and thereafter, as per the liberty given to her, to this Tribunal.

5. Vide order dated 28.7.2016, this Tribunal directed applicant as well as Respondents to search out a G.R. whereby a duty has been cast upon employer to contact the legal representatives of the deceased employee and to enlighten them about the steps to be taken after a sad demise of an employee. It is a bounden duty of the employer to give instructions to the legal heirs of the employee and to explain as to which facilities they are entitled to and how such application for facilities including compassionate appointment all to be exhausted. Respondents were

directed to file the affidavit in this regard as to whether such instructions have been complied.

6. In view of the said directions the Respondents no.1 & 2 have filed additional affidavit and has also filed G.R. dated 5.2.2010 on record, which is at Exh.X. From the additional affidavit it seems that, the Officers of the Respondents have visited the family members of the deceased employee at the time of funeral, but there is no written acknowledgment of the fact that, they have instructed about the G.R. dated 5.2.2010.

7. The perusal of the G.R. dated 5.2.2010 clearly shows that, the employer has to intimate the legal heirs of the deceased employee that, one of them is entitled to claim compassionate appointment. He has to intimate as to various financial benefits they are entitled to claim. Learned P.O. submits that, this G.R. has been issued on 5.2.2010 and the husband of the applicant died in the year 2008 and therefore, the said G.R. is not applicable. It is however material to note that impugned communication of

s.P. Jalgaon is dated 05.02.2010 (P.B. page 10) and on the very day this G.R. was issued. It is true that that, the applicant's claim has been rejected on technical ground by the learned Superintendent of Police on 27.11.2009, but it is material to note that, the learned Superintendent of Police has rejected the application only on technical ground. He ought to have considered the reasons given by the applicant for filing such application at belated stage and should not have rejected the same only on technical ground. Considering the fact that, the applicant lost her husband and was to maintain a family of four members, it was but natural that, she must have been under tremendous shock, as she lost her husband and therefore, claim should have been considered sympathetically. Though the G.R. is issued on 5.2.2010, the respondents can not deny that it is bounden duty of the employer to take into confidence the legal heirs of the employer, since the employee died in an accident. It shall have also been taken in to consideration that earlier the limit for filing application for compassionate appointment was 5 years. In view thereof I have satisfied that, impugned

communications dated 27.11.2009, 16.12.2009 and 5.2.2010 is not legal and proper. Hence, the following order.

ORDER.

- i) The O.A. is partly allowed.
- ii) The Respondent No.2 is directed to consider the application filed by applicant for appointment on compassionate ground due to sad demise of her husband in the accident, as per rules and regulations existing in the field, condoning the delay caused for filing such application.
- iii) A proper decision shall be taken for considering the claim of the applicant on compassionate ground, as per rules and regulations without being influenced by any of the observations made in this order on merits. If the applicant is otherwise found fit/eligible for appointment on compassionate ground her name shall be included in the wait list of the candidates to be appointed on compassionate ground and she shall be given appointment if required as per her turn.
- iv) No order as to costs.

MEMBER (J)

