

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 541 OF 2015

DISTRICT: JALNA

Prashant Pradip Kulkarni,
Age: 26 years, Occu: Nil,
R/o Meher Nagar, Garkheda,
Aurangabad, Tq. & Dist. Aurangabad.

.. APPLICANT

V E R S U S

- 1) The Principal Secretary,
General Administration Department,
Mantralaya, Mumbai-32.

(Copy to be served on Chief Presenting
Officer, Maharashtra Administrative
Tribunal Mumbai, Bench at Aurangabad).

- 2) The Superintendent of Police,
Jalna.

.. RESPONDENTS

APPEARANCE : Shri A.S. More, learned Advocate for the
Applicant.

: Shri N.U. Yadav, 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 21ST SEPTEMBER, 2016.)

The applicant Prashant Pradip Kulkarni, is claiming appointment on compassionate ground. His claim for appointment on compassionate ground was rejected by the

respondent no. 2 i.e. the Superintendent of Police, Jalna vide impugned communication dated 23.07.2014. The applicant is claiming that the said impugned communication be quashed and set aside and the respondent no. 2 be directed to appoint him on compassionate ground as Head Constable.

2. From the admitted facts, it seems that the applicant's father Shri Pradip Kulkarni was serving as a Head Constable with respondent no. 2. The applicant's father died in the year 2003 i.e. on 23.03.2003 and at that relevant time, the applicant was aged about 13 years.

3. On 29.07.2013, the applicant submitted an application for appointment on compassionate ground, since he attained age of majority. The said application was rejected vide impugned communication dated 23.07.2014, by respondent no. 2 and hence, this Original Application.

4. In the affidavit in reply the reply, the respondent no. 2 justified the rejection of claim. The respondent no. 2 stated that after the death of applicant's father, monetary benefits, to which the applicant's father was entitled, were disbursed to the

applicant's mother and at that time, oral information was given as regards compassionate appointment etc. The applicant has received all the monetary benefits of his deceased father in the year 2012 but he did not approach for appointment on compassionate ground. Such application is to be filed within one year from the date of attaining majority and therefore, the applicant's claim was rightly rejected.

5. Heard Shri M.S. More, learned Advocate for the applicant and Shri N.U. Yadav, learned Presenting Officer for the respondents. I have also perused the application, affidavit, affidavit in reply and various documents placed on record by the respective parties.

6. The only material point to be considered in this case is whether the impugned communication dated 23.07.2014, is legal and proper?

7. Vide impugned communication dated 23.7.2014, the applicant was informed as under:-

“प्रति,
प्रशांत प्रदिप कुलकर्णी,
रा. प्रेरणानगर, प्लॉट क्र. २ अदिनाथ नगर जवळ,
गारखेडा परिसर, औरंगाबाद.

जा.क्र.आस्था-प्रलि/अनुकंपा/२०१४/४९९४ जालना दि. २३.०७.२०१४.

संदर्भ :- आपला दि. २९.७.२०१३ रोजीचा विनंती अर्ज.

विषय :- अनुकंपा तत्वावर नोकरी मिळणे बाबत.

उपरोक्त संदर्भीय विषयान्वये आपणास कळविण्यात येते की, आपण अनुकंपा तत्वावर नोकरी मिळणे बाबत विनंती अर्ज सादर केला आहे. आपले वडील दि. २३.३.२००३ रोजी मयत झाल्यानंतर आपले वय १८ वर्षापेक्षा कमी होते, परंतु आपण १८ वर्ष पुर्ण झाल्यानंतर एक वर्षाचे आत अर्ज सादर करणे आवश्यक होते, आपण अर्ज मुदतीत सादर न केल्याने आपली विनंती अमान्य करण्यात येत आहे.

(पो.अ. यांचे मान्यतेने)

सही/-

पोलीस अधीक्षक जालना,

करिता.”

8. Admittedly, the applicant's father died on 23.3.2003. The applicant has placed on record his application as well as pro-forma in Schedule-3 at paper book page nos. 15 and 16. From the said information, it seems that the date of birth of the applicant is 15.06.1989. Thus, admittedly on 23.03.2003, when the applicant's father died, the applicant was minor but the applicant has attained majority on 15.06.2007. The application is however, filed for compassionate appointment as per Annexure A-2 at paper book page no. 15 on 29.07.2013, i.e. almost after six years and one month. The learned Presenting Officer invited my attention to the G.R. dated 11.09.1996

issued by the Government of Maharashtra, which reads as under:-

“ शासन निर्णय, सामान्य प्रशासन विभाग, क्रमांक अकंपा-१०९३/२३३५/प्र.क्र. ९०/९३/आठ, दिनांक २६.१०.१९९४ नुसार अनुकंपा तत्वावर नियुक्तीची सुधारीत योजना कार्यान्वित करण्यात आली आहे. या शासन निर्णयासोबत परिशिष्ट “अ” मधील नियम ५-अ खाली पुढील समाविष्ट करण्यात यावे.

“सेवेत असताना दिवंगत झालेल्या किंवा दुर्धर व्याधीमुळे अकाली सेवानिवृत्त झालेल्या कर्मचा-यांच्या कुटुंबातील अज्ञान वारसदाराच्या बाबतीत एकाने सज्ञान म्हणजे, १८ वर्षांचा झाल्यावर एक वर्षाच्या आत या योजनेखाली नोकरीसाठी अर्ज करावा.” हे आदेश १ मार्च, १९९६ पासून अंमलात येतील.”

9. The applicant has therefore, not filed application within one year from the date of attaining majority and therefore, I do not find any illegality in the impugned communication.

10. The learned Advocate for the applicant invited my attention to one G.R. dated 5.2.2010. The said G.R. states about difficulties, which comes across while considering appointment on compassionate ground. The learned Advocate for the applicant submitted that it was incumbent upon the respondent authorities to give information as to what steps can be taken by the legal heirs of the deceased employee for

application on compassionate ground. He special invited my attention to paragraph no. 1 of said G.R. as under:-

“ त्याचप्रमाणे दिवंगत शासकीय कर्मचा-याच्या कुटुंबियांना अनुकंपा तत्वावर नियुक्ती देण्याच्या योजनेची माहिती देणे व त्यासाठी आवश्यक असलेली औपचारिकता/कागदपत्रांची पूर्तता करण्यासाठी काय कार्यवाही करावी, त्यासाठी विहित कालमर्यादा काय आहे, याची माहिती वेळेतच संबंधित आस्थापना अधिका-यांकडून दिवंगत कर्मचा-याच्या कुटुंबियांना दिली जात नसल्याने. त्या पात्र कुटुंबियांना अनुकंपा नियुक्ती योजनेचा लाभ मिळू शकत नाही व गुंतागुंत उद्भवते हे टाळण्यासाठी दि. २३.८. १९९६ च्या शासन निर्णयातील तरतूदीनुसार प्रत्येक आस्थापना अधिका-याने त्याच्या आस्थापनेवरील दिवंगत शासकीय कर्मचा-याच्या कुटुंबियांना अनुकंपा नियुक्ती योजनेची सविस्तर माहिती (कागदपत्रांच्या पुर्ततेसह) मृत्यूच्या दिनांकापासून १५ दिवसानंतर लागलीच अथवा कुटुंबनिवृत्ती वेतनाची कागदपत्रे पाठविताना देण्याची काटेकोर दक्षता घ्यावी.”

11. The respondents have filed affidavit in reply and in the said affidavit in reply it has been mention in paragraph no. 5 as under:-

“5. I say and submits that, the contents of Para No. 3 are admitted to the extent that applicant has filed an application before the respondent no. 2 The rest of the content mention in this para are not admitted by the respondent. The present applicant is having knowledge regarding there is a provision of compassionate appointment as the office of respondent has sanction and disburse the amount of benefits to the applicant. The said monitory benefits of deceased disbursed to the applicant and legal

heirs. At that time department also orally informed about the compassionate appointment. The applicant is the educated person therefore he can not say that he is not having knowledge regarding the compassionate appointment.”

12. No rejoinder affidavit is filed by the applicant denying such contents in the affidavit in reply.

13. From the record, it seems that the applicant has become major in the year 2007 i.e. on 15.06.2007. He passed various examinations and ultimately became graduate also but he did not file application for compassionate appointment within one year from the date of attaining majority and therefore, respondents have rightly rejected the claim of the applicant and I do not find any reason to interfere with such decision. Hence, I pass following order:-

ORDER

The Original Application stands dismissed with no order as to costs.

(J.D. KULKARNI)
MEMBER (J)