

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 607 OF 2015

DISTRICT : AURANGABAD

Chetan S/o Vinayakrao Kangarkar,
Age: 19 years, Occu: Education,
r/o – Savtanagar, Vaijapur,
Tq. Vijapur, Dist. Aurangabad.

.. APPLICANT

V E R S U S

- 1) The State of Maharashtra,
Through Secretary Irrigation,
Dept., Mantralaya, Mumbai.
- 2) The Collector Aurangabad,
At Aurangabad.
- 3) The Supt. Engineer,
Minor Irrigation (Local Sector)
Division, Aurangabad.
- 4) The Executive Engineer,
Minor Irrigation (Local Sector),
Post Box No. 515, Aurangabad,
Tq. And Dist.- Aurangabad.

.. RESPONDENTS

APPEARANCE : Shri N.P. Bangar, learned counsel 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 7th September, 2016.)

The applicant in this Original Application is claiming direction to the respondent no. 3 to place his name in the wait list of candidates for appointment on compassionate ground and to accommodate him in the Government employment by expediting the procedure.

2. The applicant's father Shri Vinayakrao Kangarkar, was working as Driver in the office of respondent no. 4. While discharging duties, his father died on 16.10.1999. The applicant's mother applied for compassionate appointment after the death of her husband within one year from the date of death of her husband i.e. on 31.01.2000. She was also taken on the waiting list of candidates to be considered for appointment on compassionate ground. However, since she has completed 40 years of age before getting any appointment, her name was deleted from the wait list of the candidates. The said wait list was never absorbed completely.

3. The applicant before attaining majority has moved an applications for appointment on compassionate ground in

place of his father on 4.12.2009 and 7.6.2011 and after attaining majority he has again applied for the said benefit as per application dated 5.1.2015. Thus, the applicant has applied within one year after attaining majority for appointment on compassionate ground. Since his application was never considered by the respondents, the applicant has filed this Original Application.

4. The respondent no. 2 i.e. Shashikant Bibhishan Gaikwad, Tahsildar (General Administration) Aurangabad has filed its affidavit in reply and similarly, separate affidavit in reply has been filed by the respondent nos. 1, 3 and 4. It is the case of the respondents that the name of the applicant's mother was also taken in the wait list, though she was getting benefit of her husband's pension. Her name was placed at Sr. No. 1 in the list of candidates to be appointed on compassionate ground from Group-D, on 29.03.2000.

5. Heard Shri N.P. Bangar, learned Advocate for the applicant and Smt. Resha S. Deshmukh, learned Presenting Officer for the respondents. I have also perused the affidavit,

affidavit in reply and various documents placed on record by the respective parties.

6. The only point to be considered in this case is whether the applicant is entitled to file application for appointment on compassionate ground?

7. From the admitted facts as already discussed, it is clear that the applicant was minor when his father died on 16.10.1999 and therefore, his mother applied for compassionate ground and her name was taken on the wait list of candidates to be considered for compassionate appointment. Admittedly, the name of the applicant's mother was also deleted as per the existing G.R, since she has completed 40 years of age and till that time she did not get appointment. In this regard, it is material to note that the Government of Maharashtra has subsequently issued G.R., whereby the age limit of candidates to be considered for compassionate appointment was extended from 40 years to 45 years. It is not known as to whether the respondents have considered this fact. It is however, the fact that they have deleted the name of the applicant's mother from wait list. It is

also admitted fact that till today nobody from the family of the applicant has been given appointment on compassionate ground.

8. The learned Advocate for the applicant has placed on record a copy of G.R. dated 11th September, 1996, which is marked Exhibit-X for the purposes of identification. Vide said G.R., the Government of Maharashtra has taken decision as under:-

““सेवेत असतांना दिवंगत झालेल्या किंवा दुर्धर व्याधीमुळे अकाली सेवानिवृत्त झालेल्या कर्मचा—यांच्या कुटूंबातील 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.”

From the aforesaid G.R., it is clear that if the legal heirs of the deceased employees are minor, they are entitled to apply for appointment on compassionate ground within one year on completion of age of 18 years. There are circulars in the field issued by the Government of Maharashtra, which empowers the Government authority to extend this limit of one year to further two years; of course, it is discretion of the competent authority. However, that is not question to be considered in

this matter. Admittedly, the applicant in this case has attained majority on 19.01.2014 and he has filed application for compassionate appointment within one year thereafter.

9. The learned Presenting Officer submits that the father of the applicant has died in the year 1999 and his mother is getting pension and therefore, the circumstances, which are necessary to be considered for appointment on compassionate ground, are not existing today, and therefore, the applicant is not entitled to claim appointment on compassionate ground. I am unable to accept the contention of the learned Presenting Officer for the simple reason that the respondents have not rejected the applicant's claim on merits but they have refused to take his name on wait list. They should have considered the case of applicant on merits and then should have taken decision, whether the circumstances are existing or not and whether the applicant is really entitled to claim said appointment as per G.R. dated 26.10.1994 is a issue to be considered by the respondents. The said G.R. gives guidelines in paragraph no. 4 as what care shall be taken while considering the heirs of the deceased employees for keeping them in wait list of the candidates to be appointed on

compassionate ground. The respondents are free to act as per said guidelines.

10. 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 crises occurring in the family of the deceased who have 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.

11. The argument put-forth by the learned Advocate for the applicant can be considered by the competent authority, while considering the case of the applicant for appointment on compassionate ground. The respondents in this case have not

at all considered the applicant's case and have rejected it on technical ground. In view thereof, I pass following order:

ORDER

1. The Original Application is partly allowed.
2. The respondents are directed to consider the applicant's claim for keeping his name in the waiting list of candidates for appointment on compassionate ground as per the provisions of the various G.Rs. in this regard and shall take decision accordingly on his claim for appointment on compassionate ground.
3. Whatever decision taken by the respondents, shall be communicated to the applicant in writing within three months from the date of this order by R.P.A.D.

There shall be no order as to costs.

(J.D. KULKARNI)
MEMBER (J)