

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO.803/2015

DISTRICT – NANDED

Usha d/o Bhagwan Bansode,
Age: 18 years, Occ : Education,
R/o : At Bharaswada, Post Penur,
Tq. Loha, Dist. Nanded. ...APPLICANT

V E R S U S

1. The State of Maharashtra,
Through : Secretary,
Home Development,
Mantralaya, Mumbai-32
2. The Superintendent of Police,
Superintendent of Police Office,
Parbhani. ...RESPONDENTS

APPEARANCE :Shri Kakasaheb B. Jadhav, learned
Advocate for the applicant.

Smt. Sanjivani Ghate-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 22nd September, 2016]

Applicant Usha d/o. Bhagwan Bansode has claimed direction to respondents to include her name in the waitlist for the candidates to be appointed on compassionate ground. She has also claimed that communications dated 05-09-2015 and 03-10-2015 by respondent no.2 rejecting her claim for compassionate appointment be quashed and set aside, and her claim for compassionate appointment be considered.

2. From the admitted facts, it seems that the applicant is sister of deceased employee Ashwini Bhagwan Bansode. Ashwini was working as Police Constable on the establishment of Superintendent of Police, Parbhani. Ashwini has died on 28-09-2011. Applicant's father had also died while in service and deceased Ashwini was appointed on compassionate ground. Applicant is the only major legal heir of deceased Ashwini.

3. Earlier, applicant's mother had filed applications on behalf of her daughter (applicant) for appointment on compassionate ground due to death of Ashwini. Similar applications were preferred on 09-01-2015 and 23-06-2015. Said applications, however, came to be rejected vide impugned communication dated 03-10-2015 on the ground that 5 years limit for filing application for compassionate appointment has been reduced to one year. Therefore, it was necessary for applicant's mother Dhondanbai to file such an application within one year from the date of death of Ashwini. Since application was not filed within 1 year, it was rejected.

4. It seems from the pleadings that applicant Usha was minor when her sister Ashwini died. She attained majority on 12-06-2015. After attaining majority, applicant again applied for appointment on compassionate ground on 27-10-2015.

5. Respondents resisted the claim and relied on various G.Rs. which show that an application for appointment on compassionate ground shall be filed within 1 year from the date of death of a Government servant. It is repeatedly stated that the applicant's sister died on 28-09-2011, and therefore, the applicant should have filed application on or before 28-09-2012. However, such an application has been preferred for the first time on 09-01-2015, and therefore, same has been rightly rejected.

6. Heard Shri Kakasaheb B. Jadhav learned Advocate for the applicant and Smt. Sanjivani Ghate-Deshmukh learned Presenting Officer for the respondents. Perused memo of O.A., affidavit/s in reply, affidavit in rejoinder and various documents placed on record by the parties.

7. Only material point to be considered is whether rejection of applicant's application for appointment on compassionate ground on the count that such

application should have been filed within 1 year from the date of death of her sister, is legal and proper ?

8. Learned P.O. has invited my attention to various G.Rs. on which the respondents have placed reliance. Clause (3) of G.R. dated 22-08-2005 (Exhibit R-3, page 29) states as under:

“(३) अनुकंपा नियुक्तीसाठी पात्र कुटुंबियांकडून संबंधित नियुक्ती प्राधिका—याकडे अर्ज करण्याची सध्याची ५ वर्षांची मुदत कमी करून कर्मचारी दिवंगत झाल्याच्या दिनांकापासून एक वर्षाच्या मुदतीत अर्ज करणे आवश्यक राहील.”

From this G.R. it seems that earlier there was 5 years' limitation for filing application for appointment on compassionate ground from the date of death of Government employee. However, said limitation has been reduced to one year.

9. It is material to note that respondents themselves have placed on record one G.R. dated 11-09-1996, which is at Exhibit R-4. Said G.R. states that legal heir of the deceased employee, who is minor at the time of death of employee, can file application for

compassionate appointment within one year after attaining majority. Said G.R. reads as under :

“‘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.”

In this case, though applications were filed on 09-01-2015 and 23-06-2015, (those are at paper book page 11-12 respectively), said applications were filed by applicant's mother Dhondanbai on behalf of the applicant since applicant was minor at that time.

10. It is stated in the affidavit that the applicant has attained majority on 12-06-2015 and after that, she has filed application only on 27-10-2015 and requested the respondent no.2 to appoint her on compassionate basis. In view of this, applicant's claim should have been considered as per G.R. dated 11-09-1996.

11. In the applications dated 09-01-2015 and 23-06-2015, applicant's mother Dhondanbai has stated

that after death of her daughter Ashwini, she felt helpless and was unable to maintain her son and daughter. She has, therefore, requested that case of her daughter Usha i.e. present applicant be considered for appointment on compassionate ground for maintenance of her family. Without making any enquiry as to whether Usha (applicant) was minor or major and whether genuine case has been made out for appointment on compassionate ground, respondent no.2 seems to have rejected the application on technical ground i.e. application has not been filed within one year from the date of death of Ashwini.

12. It is material to note that Dhondanbai was not claiming appointment for herself, and therefore, respondent no.2 ought to have made enquiry as regards claim in the representations. Even for the sake of arguments, if it is accepted that the claim of Dhondanbai was rejected on technical ground still the fact remains that the applicant was minor at the relevant time. She has attained majority on

12-06-2015, and therefore, was having every right to apply for appointment on compassionate ground within one year from the date of attaining majority. Admittedly, the applicant has applied on 27-10-2015 for appointment on compassionate ground after attaining majority. Such application is filed within one year from the date of attaining majority. Therefore, claim of the applicant is required to be considered favorably.

13. In view of the discussion in the foregoing paragraphs, I pass following order:

ORDER

- (A) O.A. is partly allowed.
- (B) Respondent no.2 is directed to consider application filed by the applicant for appointment on compassionate ground in view of death of her sister Ashwini Bhagwan Bansode and shall consider her claim on merits as per rules.
- (C) In case, respondents come to a conclusion that applicant's claim falls within the ambit of

various circulars issued by the Government as regards appointment on compassionate ground, applicant's name shall be included in the waitlist of the candidates to be appointed on compassionate ground.

(D) Letters dated 05-09-2015 and 03-10-2015 issued by respondent no.2 are hereby quashed and set aside.

(E) Respondents are directed to consider applicant's claim for addition of her name in the waitlist maintained for the candidates to be appointed on compassionate ground, within 3 months from the date of this order and shall communicate the same to the applicant in writing.

(F) In the peculiar circumstances, there shall be no order as to costs.

(J. D. Kulkarni)
MEMBER (J)