

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.6510 OF 2014

RAVI SUPRASANNA ABHYANKAR

...PETITIONER

VERSUS

THE UNION OF INDIA AND OTHERS

...RESPONDENTS

Mr N.E. Deshmukh, Advocate for Petitioner

Mr S.B. Deshpande, ASG for Respondent Nos. 1 to 3

**CORAM : S.V. GANGAPURWALA
AND
SHRIKANT D. KULKARNI, JJ.**

DATE : 22ND JANUARY, 2020

PER COURT :

1. The claim of the petitioner for compassionate appointment is negated. The petitioner had approached the Central Administrative Tribunal by filing original application. The Central Administrative Tribunal rejected the claim of the petitioner. Aggrieved thereby, the present writ petition.

2. Mr Deshmukh, the learned Counsel for the petitioner strenuously contends that the petitioner's father was medically boarded out in the year 1991. He eventually died in the year 2003. The petitioner at the relevant time was 17 years of age and his sister had attained the age of majority. The learned Counsel submits that after the death of the father of the petitioner, the petitioner under application dated 06.07.2004

sought compassionate appointment. The application of the petitioner was examined and the petitioner was allotted 54 marks. The same was erroneous. The petitioner made representation. The same was not considered. The petitioner approached the Central Administrative Tribunal. The Central Administrative Tribunal directed the respondents to consider the representation of the petitioner. The said representation is rejected. It is rejected basically on the ground that now, his claim for compassionate appointment does not survive, but the challenge to the assessment made was not considered on merits. The Tribunal also did not consider the same on merits.

3. The learned Counsel submits that petitioner was entitled for 59 marks instead of 55 marks and the candidate securing 55 marks in the year 2004 was selected and appointed on compassionate ground.

4. According to the learned Counsel, the need for compassionate appointment is still factor and as per the scheme, the petitioner was entitled for appointment on compassionate ground.

5. We have also heard Mr Deshpande, the learned Assistant Solicitor General for respondents.

6. The compassionate appointment is made to provide immediate succor to the family of the deceased dying in harness. The appointment on compassionate ground is pursuant to the executive instructions and the same depends upon the equity and exigency of the circumstances. The petitioner's father was medically boarded out in the year 1991 and 12 years thereafter, he died. Though the father of the petitioner was medically boarded out in the year 1991, the application was filed by the petitioner in the year 2004 for appointment on compassionate ground and at that time, he had sister who was major.

7. The length of time consumed would also be relevant factor to be considered. The authority under the impugned communication has also considered the relevant aspect and has observed as under :-

Since the case involved a policy matter that whether the allotment of marks have to be on the date of wastage/medical board out (i.e. 1991) or date of application (i.e. 2004), the case was referred to Ordnance Factory Board, Kolkata as OFB is the final authority for compassionate appointment on policy matters. Accordingly, the Petitioner was given interim reply vide letter No. OFA L No.OFA/VS/8038/C-180/11-12 dated 18/10/2012.

Ordnance Factory Board has given clarification vide OFB L No. 427/OFA/A/I/RSA/OA-419 dtd 14/02/2013 stating that "The factory

decided to make de novo assessment in 2004 to know whether need existed or not, notwithstanding economic position and marks obtained in 1991 and that the stand of the factory is as per Govt of India instructions. The same has been confirmed by Delhi High Court in a similar case.” (The Delhi High Court Judgment No. 4618/2006)

As per various court orders and Govt. of India instructions, it is well laid procedure in cases of compassionate appointments that the aim and object of any scheme for compassionate appointment is to help the family to tide over the immediate need and assistance in the event of there being no other earning member to supplement the income of the bread earner. Whether the economic crisis on the date of application 06.07.2004 was in existence or not was brought out by the denovo assessment by OFA.

Hence, the contention of the applicant that the assessment to be done as on the date of medically boarding out (1991), is not justified.

8. The petitioner had also approached the Central Administrative Tribunal. The Central Administrative Tribunal relied upon the Judgment of the Apex Court in the case of ***State Bank of India Vs. Jaspal Kaur reported in (2007) 9 SCC 571***, wherein it is observed by the Apex Court that “the public office is not heritable and the compassionate appointment cannot be claimed as a matter of right.” The Central Administrative Tribunal has considered the relevant aspect of the

matter and has taken reasonable view.

9. In view of that, no case is made out for interference.
The writ petition is accordingly disposed of. No costs.

[SHRIKANT D. KULKARNI, J.] [S.V. GANGAPURWALA, J.]

mta