

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 1096 of 2022 (S.B.)

1. Smt. Kalpanabai Wd/o Kishorsingh Charwande,
aged about 46 years, Occ. Housewife.
2. Shri Vijaysingh Kishorsingh S/o Charwande,
aged about 25 years, Occ. Nil.
Both r/o Lahariya Nagar, Near Hanuman Mandir,
Kaulkheda, Tq. Dist. Akola.

Applicants.

Versus

1. State of Maharashtra,
through Secretary, Department of Home,
Mantralaya, Mumbai.
2. Director General of Police, SRPF, Mumbai.
3. Commandant, State Reserve Police Force Group No.9,
Wadali (SRPF Camp), Dist. Amravati.

Respondents.

S/Shri Y.S. Gorle, D.J. Sharma, Advocates for the applicants.

Shri V.A. Kulkarni, P.O. for respondents.

**Coram :- Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated :- 26/03/2024.

J U D G M E N T

Heard Shri D.J. Sharma, learned counsel for the applicants and Shri V.A. Kulkarni, learned P.O. for the respondents.

2. The case of the applicants in short is as under –

The Husband of applicant no.1 namely Kishorsingh Charwande was working as a Constable in the Reserved Police Force

(RPF). He died on 18/07/2007 while he was on duty. The applicant no.1 requested for employment on compassionate ground as per application dated 14/08/2007. Her name was recorded in the waiting seniority list. The applicant no.1 informed the respondents that due to household reasons she is unable to do Class-IV post. She requested as per letter dated 31/12/2011 to appoint her son, i.e., applicant no.2 namely Vijaysingh Kishorsingh Charwande. The respondents have not substituted the name of applicant no.2 on the ground that G.R. dated 20/05/2015 is not permissible to substitute the name during the lifetime of his mother whose name is entered in the waiting seniority list. The applicants approached to this Tribunal by filing O.A. No.654/2018. This Tribunal as per the order dated 17/02/2020 directed the respondents to consider the case of applicant in view of the G.R. dated 21/09/2017 for appointment on compassionate ground. The respondents have informed as per the impugned order dated 16/03/2020 stating that as per G.R. dated 21/09/2017 the substitution is not permissible. Hence, name of applicant no.2 cannot be substituted in place of name of his mother.

3. The O.A. is strongly opposed by the respondents. It is submitted that the mother of applicant no.2 was offered employment of Class-IV post, but she was not ready. The name of applicant no.2

cannot be substituted in view of the G.R. dated 21/09/2017. Hence, the O.A. is liable to be dismissed.

4. No any appointment order is placed on record by the respondents to show that any employment was offered to applicant no.1. The application dated 31/12/2011 filed by applicant no.1 shows that she requested to the respondents to substitute the name of applicant no.2. But the respondents have refused to substitute the name of applicant no.2 on the ground of G.R. dated 21/09/2017 not permitted to substitute the name during the lifetime of person whose name is already entered in the waiting seniority list.

5. The issue is decided by the Hon'ble Bombay High Court, Bench at Aurangabad in Writ Petition No.6267/2018 in the case of ***Dnyaneshwar S/o Ramkishna Musane Vs. State of Maharashtra & Others.*** The Hon'ble Bombay High Court, Bench at Aurangabad has held that the unreasonable restrictions imposed by the G.R. dated 20/05/2015, is directed to be deleted. The State Government has not deleted the unreasonable restrictions imposed by the G.R. dated 20/05/2015. The G.R. dated 21/09/2017 is the accumulation of all earlier G.R.s in respect of appointment on compassionate ground. The G.R. of 2015 is also mentioned in the G.R. dated 21/09/2017. As per the Judgment of the Hon'ble Bombay High Court, Bench at Aurangabad in the case of ***Dnyaneshwar S/o Ramkishna Musane***

Vs. State of Maharashtra & Others, the respondents should have substituted the name of applicant no.2. The Hon'ble Bombay High Court, Bench at Aurangabad in the case of **Dnyaneshwar S/o Ramkishna Musane Vs. State of Maharashtra & Others** has passed the following order –

“I) We hold that the restriction imposed by the Government Resolution dated 20.05.2015 that if name of one legal representative of deceased employee is in the waiting list of persons seeking appointment on compassionate ground, then that person cannot request for substitution of name of another legal representative of that deceased employee, is unjustified and it is directed that it be deleted.

II) We hold that the petitioner is entitled for consideration for appointment on compassionate ground with the Zilla Parishad, Parbhani.

III) The respondent no.2 - Chief Executive Officer is directed to include the name of the petitioner in the waiting list of persons seeking appointment on compassionate ground, substituting his name in place of his mother's name.

IV) The respondent no.2 - Chief Executive Officer is directed to consider the claim of the petitioner for appointment on compassionate ground on the post commensurate with his qualifications and treating his seniority as per the seniority of his mother.

V) Rule is made absolute in the above terms.

VI) In the circumstances, the parties to bear their own costs.”

6. In view of the order passed by the Hon'ble Bombay High Court, Bench at Aurangabad in the case of ***Dnyaneshwar S/o Ramkishna Musane Vs. State of Maharashtra & Others***, the following order is passed –

ORDER

(i) The O.A. is allowed.

(ii) The respondents are directed to substitute the name of applicant no.2 in the waiting seniority list for appointment on compassionate ground and provide him employment, as per rules.

(iii) No order as to costs.

Dated :- 26/03/2024.

(Justice M.G. Giratkar)
Vice Chairman.

dnk.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of P.A. : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 26/03/2024.