

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 1115 of 2022 (S.B.)

Roshini Dashrath Mungbhate,
Aged about 42 years, Occ. Pvt.,
R/o near Trimurty Lawns, Devnagar,
Banadongri, Hingana Road, Nagpur.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary,
Ministry of Home Affairs, Mantralaya,
Mumbai-32.
- 2) Commandant Office ,SRPF,
Division-4, Dist. Nagpur.
- 3) The Director Collector, Nagpur,
Tah. and Dist. Nagpur.

Respondents.

N.S. Pathan, M.D. Raut, Advocates for the applicant.
Shri M.I. Khan, learned P.O. for respondents.

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

Dated :- 14/03/2023.

JUDGMENT

Heard Mrs. N.S. Pathan, learned counsel for the applicant
and Shri M.I. Khan, learned P.O. for the respondents.

2. The applicant is a divorcee. She is the daughter of
deceased Ambadas M. Rajane, who was working as a Head
Constable with respondent no.2. He died on 13/06/2008 while he was
in service. The mother of applicant died on 01/05/2017. The brother

of applicant namely Mangesh Rajane applied for appointment on compassionate ground. During the Police verification, it was found that Mangesh was having criminal record and therefore he was not given any employment by the respondents. The applicant applied for substitution of her name in place of the name of deceased Mangesh who died on 24/08/2020. The application of the applicant is not considered as the substitution is not provided as per the G.R. dated 20/05/2015. Therefore, the applicant approached to this Tribunal for direction to the respondents to consider the name of the applicant for appointment on compassionate ground.

3. Heard Shri M.I. Khan, learned P.O. for the respondents. The O.A. is strongly opposed by the respondents. It is submitted that as per the G.R. dated 20/05/2015, the substitution is not provided. Hence, the applicant is not entitled for the relief.

4. The Hon'ble Bombay High Court, Aurangabad Bench in the case of **Dnyaneshwar S/o Ramkishna Musane Vs. State of Maharashtra & Others** has held that the unreasonable restriction imposed by the G.R. dated 20/05/2015 needs to be deleted. The following order was passed by the Hon'ble Bombay High Court, Aurangabad Bench in the case of **Dnyaneshwar S/o Ramkishna Musane Vs. State of Maharashtra & Others** –

“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.”

5. The specific direction was given by the Hon’ble Bombay High Court, Aurangabad Bench in the case of **Dnyaneshwar S/o Ramkishna Musane Vs. State of Maharashtra & Others**. The State Government was directed to delete the unreasonable restriction imposed by the G.R. dated 20/05/2015. The said Judgment is binding on the State Government. The said Judgment was not challenged by the State Government. Hence, the following order –

ORDER

(i) The O.A. is allowed.

(ii) The respondents are directed to substitute the name of applicant in place of the name of her brother Mangesh Rajane and provide her employment on compassionate ground, as per rules.

(iii) No order as to costs.

Dated :- 14/03/2023.

(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 Steno : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 14/03/2023.