

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 1123 of 2021 (S.B.)

Shri Shailesh Samarjitsingh Thakur,
Plot No. 105, Pension Nagar, Police Line, Takli,
Zenda Sq., Nagpur.

Applicant.

Versus

- 1) The State of Maharashtra
through its' secretary, Home Department,
Mantralaya Mumbai-32.
 - 2) The Superintendent of Police,
Nagpur Rural, Near Providence School,
Civil Lines, Nagpur.
 - 3) The Director General of Police,
Maharashtra State, Shahid Bhagat Singh Marg, Mumbai-1
- Respondents.**

Shri S.M. Khan, Advocate for the applicant.
Shri A.M. Khadatkhar, learned P.O. for respondents.

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

Dated :- 18/04/2023.

J U D G M E N T

Heard Shri S.M. Khan, learned counsel for the applicant
and Shri A.M. Khadatkhar, learned P.O. for the respondents.

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

The father of applicant was working as a Police Naik
Constable at Police Station, Yeltur, Dist. Nagpur on the establishment of

Superintendent of Police (Rural), Nagpur. The father of applicant expired on 02/05/2002 while he was on duty due to brain haemorrhage. The applicant was minor and therefore his mother applied for appointment on compassionate ground. Her name was entered in the waiting seniority list, but it was deleted because she has completed 40 years of age. The applicant applied in the year 2015 for appointment on compassionate ground for substitution of his name. The applicant's application for appointment on compassionate ground was rejected by the Superintendent of Police (Rural), Nagpur as per communication dated 23/12/2015 on the ground that as per G.R. related to the compassionate appointment, his name cannot be substituted. There was a recommendation made by the Special IGP, Nagpur as per communication dated 19/01/2018 for entering the name of applicant in the seniority list for providing him employment on compassionate ground.

3. The O.A. is strongly opposed by the respondents on the ground that substitution is not provided as per G.R. of 2015, therefore, the O.A. is liable to be dismissed.

4. Heard Shri S.M. Khan, learned counsel for the applicant. He has pointed out the Judgment of Hon'ble Bombay High Court, Aurangabad Bench in the case of **Dnyaneshwar S/o Ramkishna Musane Vs. State of Maharashtra & Others** wherein the Hon'ble

Bombay High Court, Aurangabad Bench has specifically directed the Government of Maharashtra to delete the unreasonable restriction imposed by the G.R. dated 20/05/2015.

5. The applicant's mother applied for appointment on compassionate ground. The respondents have not provided any employment to the applicant's mother. Her name is deleted from the waiting seniority list because she has completed 40 years of age. The applicant has applied for appointment on compassionate ground in the year 2015 itself, i.e., before the G.R. of 2017. 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.”

6. In view of the above cited Judgment of the Hon'ble Bombay High Court, Aurangabad Bench in the case of **Dnyaneshwar S/o Ramkishna Musane Vs. State of Maharashtra & Others**, the substitution is permitted. Hence, the following order –

ORDER

(i) The O.A. is allowed.

(ii) The respondents are directed to enter the name of applicant in the waiting seniority list for appointment on compassionate ground and provide him employment on compassionate ground, as per rules.

(iii) No order as to costs.

Dated :- 18/04/2023.

(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 : 18/04/2023.*