

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 1141 of 2022 (S.B.)

- 1) Sunita W/o. Narahari Dakhore, Age 46 yrs. Occu. Nil
- 2) Rupesh S/o. Narahari Dakhore,
Age 23 yrs. Occu. Nil
Both are R/o. At Dhamdhami Post, Amana, Th. Malegaon,
Dist-Washim.

Applicants.

Versus

- 1) The State Of Maharashtra,
through its Secretary,
Home Department, Mantralaya, Mumbai-32.
- 2) The State of Maharashtra,
through its Secretary of General Administration Department,
Mantralaya, Mumbai-32.
- 3) The Superintendent of Police,
Police Superintendent Office, Washim.

Respondents.

S/Shri P.S. Kshirsagar, G. Gadge, Advs. for the applicants.
Shri V.A. Kulkarni, learned P.O. for respondents.

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

Dated :- 20/06/2023.

JUDGMENT

Heard Shri G. Gadge, learned counsel for the applicants
and Shri V.A. Kulkarni, learned P.O. for the respondents.

2. The matter is heard and decided finally with the consent of
learned counsel for both the parties.

3. As per the submission of learned counsel for the applicants, this matter is covered by the Judgment of the Hon'ble Bombay High Court, Bench at Nagpur in Writ Petition No.3344/2021 in the case **Anjali d/o Dashrath Chauhan Vs. State of Maharashtra & Ors.**, decided on 14/03/2022 and other Judgment of the Hon'ble Bombay High Court, Bench at Aurangabad.

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

Narhari D. Dakhore was working as a Police Head Constable at Police Station, Washim. He died due to illness on 24/09/2011 while he was in service. The applicant no.1 is wife of deceased and applicant no.2 is the son of deceased. The name of applicant no.1 was entered in the waiting seniority list for appointment on compassionate ground, but till date the respondents not granted any appointment to her. On 20/03/2017, applicant no.1 made application and requested to grant compassionate appointment to applicant no.2. The respondent no.3 by communication dated 13/08/2021 informed that the name of applicant no.1 is deleted because she has completed 45 years of age. Request for compassionate appointment to applicant no.2 came to be rejected by the said communication. Hence, the applicants approached to this Tribunal.

5. Applicant no.1 applied for compassionate appointment to applicant no.2 on 20/03/2017 stating that her age was 43 years, therefore, name of applicant no.2 be entered in the waiting seniority list.

6. As per the submission of the learned P.O., the G.Rs. dated 20/05/2015 and 21/09/2017 not permitted. The substitution of the name is not permissible, because, the name of applicant no.1 was in the waiting seniority list.

7. It appears that the respondents have acted upon the G.R. dated 21/09/2017. The G.R. of 2017 is the consolidation of all the earlier G.Rs. in respect of appointment on compassionate ground. The G.R. dated 20/05/2015 is also mentioned in the G.R. of 2017. As per the G.R. of 2015, the substitution is not permitted. 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.”

8. In view of 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,** unreasonable restriction imposed by the G.R. of 2015 was directed to be deleted, but the State Government has not deleted the unreasonable restriction.

9. Hence, in view of 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 following order is passed –

ORDER

(i) The O.A. is allowed

(ii) The respondents are directed to enter 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 :- 20/06/2023.

(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 : 20/06/2023.