

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL****NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No. 1259 of 2022 (S.B.)**

- 1) Kalpana Wd/o Sunil Chikle  
Aged about: 45 Years, Occ: Household
- 2) Sukalp S/o Sunil Chilke  
Aged about: 19 years, Occ : Student  
Both R/o C/o Dr. Avinash Shankhadarwar Navegaon,  
Post Mudza, Gadchiroli – 442605.

**Applicants.****Versus**

- 1) State of Maharashtra through its Secretary  
Home Department, Mantralaya,  
Mumbai-400 032.
- 2) The Director General of Police,  
State Reserve Police Force,  
Maharashtra State, Mumbai.
- 3) The Additional General of Police,  
State Reserve Police Force,  
Maharashtra State, Mumbai.
- 4) The Deputy Inspector General of Police,  
State Reserve Police Force,  
Nagpur Range, Nagpur.
- 5) The Commandant State Reserve Police Force (Bal Gat)  
Group No. 13, Visora, Tahsil Vadsa (Desaiganj),  
District Gadchiroli

**Respondents.**

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**Shri Ashish Chaware, Siddhi A. Chaware, Advs. for the applicants.  
Shri A.M. Ghogre, learned P.O. for respondents.**

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

**Dated :- 08/06/2023.**

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## **JUDGMENT**

Heard Shri Ashish Chaware, learned counsel for the applicants and Shri A.M. Ghogre, learned P.O. for the respondents.

2. The father of applicant no.2 and husband of applicant no.1, was working as Assistant Sub Inspector. He died on 04/08/2014 while he was on duty in the naxalite area. The applicant no.1 made representation on 22/04/2014 for providing appointment on compassionate ground. The applicant no.1 requested the respondents to appoint applicant no.2 on compassionate ground. The applicant no.1 applied for providing employment to her son i.e. applicant no.2 on 17/03/2017. She made again representation on 29/08/2022. The respondents neither provided any employment to applicant no.1 nor her son i.e. applicant no.2, instead, they have removed the name of applicant no.1 from the waiting seniority list for appointment on compassionate ground on the ground that she has completed 45 years of age.

3. The respondents have not replied as to why the name of applicant no.2 cannot be entered in the waiting seniority list.

4. Shri A.M. Ghogre, learned P.O. for the respondents. The reply is filed by respondent no.5. It is submitted that as per the G.R. dated 21/09/2017, the name of applicant no.2 cannot be entered in the

waiting seniority list. The applicant no.1 has completed 45 years of age and therefore her name was deleted from the waiting seniority list. Hence, the O.A. is liable to be dismissed.

5. Heard Shri Ashish Chaware, learned counsel for the applicants. The learned counsel for the applicants has pointed out the decision of this Tribunal in O.A.410/2022, decided on 11/11/2022.

6. The main reason for not entering the name of applicant no.2 in the waiting seniority list is the G.R. dated 21/09/2017. The G.R. of 2017 is accumulation of all the earlier G.Rs. As per G.R. of 20/05/2015, the name of applicant no.2 is not entered in the waiting seniority list, because, the name of applicant no.1 was in the seniority list. It is pertinent to note that the respondents have not provided any employment to applicant no.1. On completion of 45 years of age, the name of applicant no.1 was deleted from the waiting seniority list. Deceased husband of applicant no.1 was working in the naxalite area. He died while he was on duty. It was the duty of respondents to provide employment on compassionate ground. The G.R. of 2015 cannot be obstacle for entering the name of applicant no.2 in the waiting seniority list. The Hon'ble Bombay High Court, Aurangabad Bench 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."*

7. As per the order of Hon'ble Bombay High Court, Aurangabad Bench the unreasonable restriction imposed by the G.R. dated 20/05/2015 was directed to be deleted, but the Government of Maharashtra not deleted the unreasonable restriction imposed by the G.R. of 2015. Hence, in view of the Judgment of Hon'ble Bombay High Court, Aurangabad Bench 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 and provide him employment on compassionate ground, as per rules.

(iii) No order as to costs.

**Dated** :- 08/06/2023.

dnk.

**(Justice M.G. Giratkar)**  
**Vice Chairman.**

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 : 08/06/2023.

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