

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 151 of 2022 (S.B.)

- 1) Bhagyashree wd/o Ravindra Kite,
Aged about 33 years, Occ. Private,
R/o New Abadi Massal Road, Nehru Ward,
Tah. Chimur, Dist. Chandrapur.
- 2) Sandip S/o Ravindra Kite,
Aged about 33 years, Occ. Private,
R/o New Abadi Massal Road, Nehru Ward,
Tah. Chimur, Dist. Chandrapur.

Applicants.

Versus

- 1) State of Maharashtra,
through its Secretary Ministry of Revenue Department,
Mantralaya, Mumbai-32.
- 2) Collector, Dist. Chandrapur.
- 3) Sub Divisional Officer, Bhramapuri
Dist. Chandrapur.
- 4) Tahsildar, Bhramapuri,
Dist. Chandrapur.

Respondents.

Naziya S. Pathan, Advocate for the applicants.
Shri S.A. Sainis, learned P.O. for respondents.

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

Dated :- 06/12/2022.

JUDGMENT

Heard Naziya S. Pathan, learned counsel for the
applicants and Shri S.A.Sainis, learned P.O. for the respondents.

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

The father of applicant no.2 and husband of applicant no.1 namely Ravindra Kite was working as Talathi with respondent no.3. He died while discharging his duty on 23/03/2000. Immediately, after the death, the applicant no.1 applied for appointment on compassionate ground. The name of applicant no.1 was recorded in the waiting seniority list for appointment of compassionate ground. In the meanwhile, the applicant no.1 applied for substitution of the name of applicant no.2 as per the application dated 09/01/2006. The name of applicant no.1 was deleted and it was informed to the applicants that substitution is not permissible in view of G.R. dated 20/05/2015. Hence, this O.A. is for direction to the respondents to include the name of applicant no.2 in the waiting seniority list and provide appointment on compassionate ground.

3. Heard Shri S.A.Sainis, learned P.O. for the respondents. The O.A. is strongly opposed by the respondents. It is submitted that the substitution during the life time of applicant no.1 is not permissible in view of the Govt. G.R. dated 20/05/2015.

4. Heard learned counsel for the applicants Naziya Pathan. She has pointed out the Judgment of 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, decided on 11/03/2020. The Hon'ble Bombay High Court has held that the Government has made the unreasonable restriction in the G.R. of 2015 and 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."

5. The Hon'ble Bombay High Court has directed the Government to delete the unreasonable restrictions in the G.R. of 2015. In view of the Judgment of Hon'ble Bombay High Court in the case of **Dnyaneshwar S/o Ramkishna Musane Vs. State of**

Maharashtra & Others,, the substitution of name of applicant no.2 is permissible. Hence, the following order –

ORDER

- (i) The O.A. is allowed.
- (ii) The respondents / respondent no.3 is directed to include the name of applicant no.2 in place of his mother, i.e., applicant no.1 in the same waiting seniority list for appointment on compassionate ground and provide employment, as per the rules.
- (iii) No order as to costs.

Dated :- 06/12/2022.

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 : 06/12/2022.

Uploaded on : 09/12/2022.

ok