

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION No. 185 of 2022 (S.B.)**

Parikshit S/o Sharad Vinchurkar,  
aged about 20 years, Occ. Student,  
R/o Khamgaon, Tq. Khamgaon, Dist. Buldhana.

**Applicant.**

**Versus**

- 1) The State of Maharashtra through its Secretary  
General Administration Department,  
Mantralaya, Mumbai-32.
- 2) The Collector Buldhana,  
Collectorate Office, State Bank Square,  
Buldhana - 443001.
- 3) The Deputy Director Health Services,  
Akola Circle, Beside Chaudhari High School,  
District Women Hospital Premises, Akola.
- 4) The District Malaria Officer,  
Tq. & Dist. Buldhana.

**Respondents.**

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**Shri C.A. Babrekar, Advocate for the applicant.**  
**Shri S.A. Sainis, learned P.O. for respondents.**

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

**Dated :- 26/07/2023.**

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**J U D G M E N T**

Heard Shri C.A. Babrekar, learned counsel for the applicant and Shri S.A. Sainis, learned P.O. for the respondents.

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

The father of applicant was Health Worker in the establishment of respondent no.4. He died on 15/09/2010 while he

was in service. The mother of applicant applied for appointment on compassionate ground. Her application was allowed and her name was entered in the waiting seniority list for appointment on compassionate ground. The applicant's mother had applied on 15/02/2011 for substitution of the name of applicant in her place. The respondents have deleted the name of mother of applicant as per the order dated 09/02/2021 on the ground that she has completed 45 years of age and as per the G.R. dated 21/09/2017. Her name is removed from the seniority list for appointment on compassionate ground. It is the case of the applicant that the respondents have not provided service to the mother of applicant. Instead of providing service, her name was removed from the seniority list for appointment on compassionate ground. The applicant's mother had applied on 15/02/2011 for substitution of the name of applicant in her place, but it is not considered. Hence, the applicant has filed the present O.A. for direction to the respondents to include his name in place of name of his mother in the waiting seniority list for compassionate appointment and provide the employment on compassionate ground.

3. The O.A. is strongly opposed by the respondents. As per the submission of respondents the mother of applicant has crossed the age of 45 years, therefore, as per the G.R. dated 21/09/2017 her name is removed from waiting seniority list. The Id. P.O. submitted

that as per the G.R. dated 20/05/2015 the substitution is not provided and hence the O.A. is liable to be rejected.

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.

*"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 name of his mother in the waiting seniority list for appointment on compassionate ground and provide him employment as per rules.

(iii) No order as to costs.

**Dated** :- 26/07/2023.

**(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 : 26/07/2023.