

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 230 of 2021 (S.B.)

- 1) Aniket Vithhal Bhandakkar,
Aged about 20 Years, Occu. Education
- 2) Chhaya Vithhal Bhandakkar,
Aged about: 44 Years, Occu:Nil
Both R/o Bhanapeth, Kannamwar Square
Near Dhakate Floor Mill, At- Chandrapur,
Tahsil & District: Chandrapur-442401.

Applicants.

Versus

- 1) State of Maharashtra,
through Department of Home,
Mantralay Mumbai.
- 2) The Spl. I.G.P., Nagpur Range, Nagpur,
Add: Near Sadar Police Station,
Civil Lines, Nagpur-440001.
- 3) The Superintendent of Police,
Chandrapur, Dist. Chandrapur.

Respondents.

Shri R.L. Alone, Advocate for the applicants.
Shri A.M. Ghogre, learned P.O. for respondents.

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

Dated :- 12/04/2023.

JUDGMENT

Heard Shri A. Bhautik, learned counsel holding for Shri R.L. Alone, learned Counsel for the applicants and A.M. Ghogre, learned P.O. for the respondents.

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

The father of applicant no.1, Mr. Vitthal Bhaurao Bhandakkar was working as a Police Constable since 21/01/1991. Mr. Vitthal Bhaurao Bhandakkar died on 30/10/2010 while he was in service. On 11/11/2011, the applicant no.2 submitted application for appointment on compassionate ground. Her name was recorded in the waiting seniority list for appointment on compassionate ground. Her name was deleted from the waiting seniority list, because, she has completed 44 years of age. Accordingly, it was communicated to the applicant no.2 on 13/08/2020. The applicant no.1 had applied for substitution of his name in place of name of his mother, but the respondents not considered his request stating that the substitution is not provided as per the Government G.R. dated 20/05/2015. Hence, the applicants approached to this Tribunal for direction to the respondents to substitute the name of applicant no.1 and provide him employment on compassionate ground.

3. Heard A.M. Ghogre, learned P.O. for the respondents. The O.A. is strongly opposed by the respondents. It is submitted that the name of applicant no.2 was recorded in the waiting seniority list for appointment on compassionate ground. Her name is deleted because she has completed 44 years of age. The substitution is not provided as per the Government G.R. dated 20/05/2015.

4. Heard Shri A. Bhautik, learned counsel holding for Shri R.L. Alone, learned Counsel for the applicants. He has pointed out the Judgment of Hon'ble Bombay High Court, Aurangabad Bench 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 and submitted that the conditions mentioned in the Government G.R. dated 20/05/2015 is declared as unreasonable and the State Government was directed to delete the unreasonable restriction. 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.”

5. The unreasonable restriction imposed in the Government G.R. dated 20/05/2015 is not deleted by the State Government, though specific direction was given by the Hon'ble Bombay High Court, Aurangabad Bench.

6. 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 substitute the name of applicant no.1 in place of 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 :- 12/04/2023.

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 : 12/04/2023.

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