

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 236 of 2022 (S.B.)

- (1) Smt. Vaishali Hemantrao Pal,
Aged 47 years, Occ. Housewife,
R/o Kende Layout, Ward No.6, Ralegaon,
Tq. Ralegaon, Dist. Yavatmal.
- (2) Shubham Hemantrao Pal,
Aged 25 years, Occ. Unemployed,
R/o Kende Layout, Ward No.6, Ralegaon,
Tq. Ralegaon, Dist. Yavatmal.

Applicants.

Versus

- 1) State of Maharashtra,
through its Secretary, Home Department,
Mantralaya, Mumbai.
- 2) Superintendent of Police,
Amravati (Rural), near Collector Office,
Amravati.

Respondents.

Shri P.S. Patil, Advocate for the applicants.

Shri H.K. Pande, learned P.O. for the respondents.

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

Dated :- 02/01/2023.

JUDGMENT

Heard Shri P.S. Patil, learned counsel for the applicants and Shri H.K. Pande, learned P.O. for the respondents.

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

The husband of applicant no.1 was working as a Police Constable. He died while in service on 04/04/2007. The applicant no.1 applied for compassionate appointment in the year 2007 itself. On 01/01/2016, the applicant no.1 applied for substitution of name of her son, i.e., applicant no.2. The respondents have not substituted the name of applicant no.2. It was informed to the applicant no.1 by letter dated 09/12/2020 stating that the applicant no.1 has completed 45 years on 09/06/2020 and therefore her name is removed from the waiting list for appointment on compassionate ground. Hence, the applicants approached to this Tribunal.

3. The O.A. is strongly opposed by the respondents. It is submitted that as per the G.R. of 2017 substitution is not permitted. Hence, the O.A. is liable to be dismissed.

4. The issue in respect of substitution is decided by the 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, Bench at Aurangabad 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 name of applicant no.2 was not substituted in view of the G.R. dated 20/05/2015. All the earlier G.Rs. are now consolidated in the G.R. of 2017. As per the Judgment in case of **Dnyaneshwar S/o Ramkishna Musane Vs. State of Maharashtra & Others**, the substitution of the name is permitted. Hence, the following order –

ORDER

(i) The O.A. is allowed.

(ii) The respondents are directed to substitute the name of applicant no.2 in place of the name of applicant no.1 in the same seniority waiting list for appointment on compassionate ground and provide the employment, as per rules.

(iii) The name of applicant no.2 be included in the waiting seniority list within a period of three months from the date of this order.

(iv) No order as to costs.

Dated :- 02/01/2023.

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 : 02/01/2023.*