

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION No. 238 of 2022 (S.B.)**

(1) Rajendra Wd/o Pramod Kamble,  
Aged 57 years, Occ. Nil,

(2) Sahyadri Pramod Kamble,  
Age 22, Occ. Student,

Both R/o 59, Chandramani Nagar,  
near Buddha Vihar, Nagpur.

**Applicants.**

**Versus**

1) State of Maharashtra,  
through its Secretary,  
Department of Home,  
Mantralaya, Mumbai-32.

2) Commissioner of Police,  
Civil Lines, Nagpur.

**Respondents.**

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**S/Shri R.V. , N.R. Shiralkar, Amey Motlag, Advocates for the applicants.**

**Shri A.M. Khadatkhar, learned P.O. for respondents.**

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

**Dated :- 15/03/2023.**

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**JUDGMENT**

Heard Shri Amey Motlag, 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 father of applicant no.2 and husband of applicant no.1 namely Pramod Haribhau Kamble was working as a Police Constable with the respondents. He died due to heart attack while he was on

duty on 10/04/2000. The applicant no.1 applied for appointment on compassionate ground on 10/05/2000. Her name was taken in the waiting seniority list. Her name was removed from the waiting seniority list, because, she had completed 40/45 years of age. The applicant no.1 had already applied to substitute the name of applicant no.2 in place of her name. It was informed by the respondents that substitution is not provided as per the G.R. dated 20/05/2015. Hence, the applicants approached to this Tribunal for the following reliefs –

*“(A) Quash and set aside the order dated 17/01/2022 passed by the respondent no.2, being illegal, arbitrary and consequently;*

*(B) Direct the respondent no.2 to include the name of the applicant no.2 to the list of candidates to be appointed compassionate ground and further direct the respondent no.2 to consider the case of the applicant no.2 for appointment on any Class-III or Class-IV post according to her educational qualifications.”*

3. Heard Shri Amey Motlag, learned counsel for the applicants. He has pointed out the Judgment of Division Bench of the Hon'ble Bombay High Court, Bench at Nagpur in Writ Petition No.5944/2018 in the case of **Smt. Pushpabai Wd/o Rajesh Bisne & Ano. Vs. State of Maharashtra and others**, decided on 22/07/2019 and the Judgment of 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.

4. The learned counsel for the applicants has also pointed out the Judgment of the Hon'ble Bombay High Court, Bench at Nagpur in Writ Petition No.4433/2018 in the case of ***Aruna Anilrao Harne and Ano., Vs. State of Maharashtra and others***, decided on 15/12/2021. The Hon'ble Bombay High Court, Bench at Nagpur in Writ Petition No.4433/2018 relying on the Judgment of ***Dnyaneshwar S/o Ramkishna Musane Vs. State of Maharashtra & Others*** and directed the respondents to consider the case of Petitioner No.2 for grant of compassionate appointment by substituting her name in the waiting seniority list. The Hon'ble Bombay High Court, Bench at Aurangabad 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 specific direction was given to the Government of Maharashtra by the above order to delete the unreasonable restriction imposed by the G.R. dated 20/05/2015, but the Government of Maharashtra has not deleted the unreasonable restriction imposed by G.R. dated 20/05/2015. 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 name of applicant no.1 in the same waiting seniority list and provide her employment, as per rules.

(iii) No order as to costs.

**Dated** :- 15/03/2023.

**(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 : 15/03/2023.

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