

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 464 of 2022 (S.B.)

- (1) Yashkumar S/o Panduraj Adole,
Aged about 23 years, Occ. Nil
- (2) Kalpana Wd/o Panduraj Adole,
Aged about 51 years, Occ. Household

Both R/o Near Water Tank,
Diksha Colony, Mangrulpri, Tq. Mangrulpri,
District Washim.

Applicants.

Versus

- 1) State of Maharashtra,
through its Secretary, Home Department,
Mantralaya, Mumbai-32.
- 2) Superintendent of Police, Washim, District Washim.
- 3) Deputy Superintendent of Police,
Washim District, Washim.
- 4) District Collector,
Washim Tq. & Dist. Washim.

Respondents.

Shri P.B. 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 N.A. Waghmare, learned counsel holding for Shri P.B. 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 father of applicant no.1 Pandurang Baliram Padole was appointed as a Naik Police Constable in the establishment of the Superintendent of Police, Washim. After serving 22 years, he died on 22/02/2011. Wife of deceased, i.e., applicant no.2 applied for appointment on compassionate ground as per application dated 18/03/2011. The applicant no.2 applied for substitution of name of applicant no.1 on 22/03/2016. The respondents have communicated as per the letter dated 30/01/2022 stating that there is no provision of substitution in the G.R. dated 21/09/2017. Hence his application was rejected. Therefore, the applicant approached to this Tribunal.

3. There is no dispute that the name of applicant no.2 was recorded in the waiting seniority list. The applicant no.2 applied for substitution of name of applicant no.1, but it was rejected on the ground that the G.R. dated 21/09/2017 not

permitted substitution during the life time of applicant no.2. Hence, the applicant approached to this Tribunal.

4. The O.A. is strongly opposed by the respondents. The issue in respect of substitution of name is now settled 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 G.R. dated 21/09/2017 is the consolidation of all the earlier G.Rs. As per the G.R. dated 20/05/2015, the substitution of name was not permitted. The Hon'ble Bombay High Court, Bench at Aurangabad in the case of **Dnyaneshwar S/o Ramkishna Musane Vs. State of Maharashtra & Others** has specifically directed the Government of Maharashtra to delete the unreasonable restriction imposed by the G.R. dated 20/05/2015, but till date the said the unreasonable restriction is not deleted. In view of the judgment of Hon'ble Bombay High Court, Bench at Aurangabad in the case of **Dnyaneshwar S/o Ramkishna Musane Vs. State of Maharashtra & Others**, the applicant no.1 is entitled for substitution his name in place of name applicant no.2. Hence, the following order –

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.
- (iii) The name of applicant no.1 be included in the same serial number in the waiting seniority list in place of applicant no.2 within a period of one month from the date of receipt of this order.

(iv) The respondents are directed to provide appointment on compassionate ground, as per the rules.

(v) No order as to costs.

Dated :- 02/01/2023.

(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 : 02/01/2023.*