

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 572 of 2022 (S.B.)

- 1) Smt. Manjusha Vijay Dahapute,
Age 46 years, Occ. Household
- 2) Shubham Vijay Dahapute,
Aged 24 years, Occ. Education,
Both R/o Ashtavinayak Nagar,
Lahan Umri, Tq. & Dist. Akola.

Applicants.

Versus

- 1) State of Maharashtra through
Additional Chief Secretary,
Home Department, Mantralaya, Mumbai-400 032.
- 2) Superintendent of Police,
Akola Dist. Akola.

Respondents.

Shri V.B. Bhise, Advocate for the applicants.

Shri V.A. Kulkarni, learned P.O. for the respondents.

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

Dated :- 15/12/2022.

JUDGMENT

Heard Shri V.B. Bhise, learned counsel for the applicants
and Shri V.A. Kulkarni, learned P.O. for the respondents.

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

The husband of applicant no.1 namely Vijay Namdeorao
Dahapute was working as a Police Head Constable / Naik on the

establishment of respondent no.2. He died on 12/03/2008 due to heart attack, while he was in service.

3. On 19/04/2008, the applicant no.1 being the wife of deceased, applied for appointment on compassionate ground. The applicant no.1 is now age barred. As per the G.R. of 2017, she is not eligible for appointment on compassionate ground, because, she has crossed the age of 45 years.

4. The applicant no.2 applied for substitution of his name in place of name of his mother, i.e., applicant no.1 as per application dated 15/04/2017. The said application is not decided by the respondents. Hence, the applicants approached to this Tribunal for substitution of name of applicant no.2 in place of the name of applicant no.1.

5. The respondent no.2 has filed the reply. In para-8 of the reply, it is submitted that the name of applicant no.2 is not substituted because as per the G.R. of 2015, the substitution is not permissible during the life time of applicant no.1.

6. It appears from the reply that the substitution of name of applicant no.1 is not made only because of the G.R. dated 20/5/2015. The Hon'ble Bombay High Court, Bench at Aurangabad in Writ Petition No.6267/2018 in the case of **Dnyaneshwar S/o Ramkishan**

Musane Vs. State of Maharashtra & Others has given direction to the State of Maharashtra to delete the unreasonable restrictions imposed by the G.R. dated 20/05/2015. The operative part of the Judgment of Hon'ble Bombay High Court, Bench at Aurangabad in the case of **Dnyaneshwar S/o Ramkishan Musane Vs. State of Maharashtra & Others** is reproduced as under –

“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.”

7. In view of the Judgment of Hon'ble Bombay High Court, Bench at Aurangabad in the case of **Dnyaneshwar S/o Ramkishan Musane Vs. State of Maharashtra & Others**, the substitution is

permissible. The unreasonable restrictions imposed by the G.R. 20/05/2015 is not the obstacle for substitution of name of applicant no.2. Hence, the following order –

ORDER

i) The O.A. is allowed.

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

iii) No order as to costs.

Dated :- 15/12/2022.

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 : 15/12/2022.