

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION No. 582 of 2021 (S.B.)**

- 1) Smt. Vanita Ganesh Deshmukh,  
Aged about 47 years, Occ. Nil,  
R/o Mankapur, Koradi Road, Nagpur.
- 2) Shubham Ganesh Deshmukh,  
Aged about 24 years, Occ. Nil,  
R/o Mankapur, Koradi Road, Nagpur.

**Applicants.**

**Versus**

- 1) The State of Maharashtra,  
through its Secretary,  
Department of Home, Mantralaya, Mumbai-32.
- 2) The Special General of Police,  
Nagpur Range, Nagpur.
- 3) The Superintendent of Police (Rural),  
Nagpur.
- 4) The Deputy Superintendent of Police,  
(Home) (Rural), Nagpur.
- 5) The Collector, Nagpur.

**Respondents.**

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**S/Shri G.G. Bade, P.P. Khaparde, Advocates for the applicants.  
Shri V.A. Kulkarni, learned P.O. for respondents.**

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

**Dated :- 14/03/2023.**

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**JUDGMENT**

Heard Shri G.G. Bade, 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 –

Late Ganesh Deshmukh was working on the post of Head Constable with the respondents. He died on 19/01/2002 while he was in service. After the death of Ganesh Deshmukh, his wife i.e. applicant no.1 applied for appointment on compassionate ground. She was appointed on the Class-IV post in the year 2008, but due to her medical complications, she could not join and therefore she applied to provide the employment to her son i.e. applicant no.2. The application was rejected stating that it is not allowed as per the G.R. 20/05/2015. Hence, this O.A. for direction to the respondents to appoint the applicant no.2 on compassionate ground.

3. Heard Shri V.A. Kulkarni, learned P.O. for the respondents. The O.A. is strongly opposed by the respondents. It is submitted that the applicant no.1 not joined though employment was provided to her. Substitution is not provided as per G.R. dated 20/05/2015 and latest G.R. dated 21/09/2017, hence the O.A. is liable to be dismissed.

4. There is no dispute that the applicant no.1 could not join the service because of her medical complications. She applied to provide the service to her son, i.e., the applicant no.2. It was rejected on the ground that the substitution is not provided as per the G.R. dated 20/05/2015. 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 has held that the unreasonable restriction imposed by the G.R. dated 20/05/2015 needs to be deleted. The operative part 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** 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."*

5. The learned P.O. has submitted that in the recent Judgment, the Hon'ble Bombay High Court has held that the

restriction imposed by the G.R. dated 20/05/2015 is reasonable and therefore the decision in the case of **Dnyaneshwar S/o Ramkishna Musane Vs. State of Maharashtra & Others** is not applicable. The specific direction was given by the Hon'ble Bombay High Court, Aurangabad Bench in the case of **Dnyaneshwar S/o Ramkishna Musane Vs. State of Maharashtra & Others**. The State Government was directed to delete the unreasonable restriction imposed by the G.R. dated 20/05/2015. The said Judgment is binding on the State Government. The said Judgment was not challenged by the State Government. Hence, the following order –

**ORDER**

- (i) The O.A. is allowed.
- (ii) The respondents are directed to enter the name of applicant no.2 in the waiting seniority list of compassionate appointment and provide him employment, as per rules.
- (iii) No order as to costs.

**Dated** :- 14/03/2023.

**(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 : 14/03/2023.

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