

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 603 of 2022 (S.B.)

Roshan Krushnarao Veer,
Age 26 years, Occu. Nil,
R/o Ward No.5, At Post Nagbhid,
Tah. Nagbhid, Dist. Chandrapur.

Applicant.

Versus

1. The State of Maharashtra,
through its Secretary, Revenue Department,
Mantralaya, Mumbai-32.
2. The State of Maharashtra,
through its Secretary of
General Administration Department,
Mantralaya, Mumbai-32.
3. The Collector, Chandrapur.

Respondents.

Shri P.S. Kshirsagar, Advocate for the applicant.
Shri M.I. Khan, learned P.O. for respondents.

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

Dated :- 13/04/2023.

JUDGMENT

Heard Shri G.O. Gadge, learned counsel holding for Shri P.S. Kshirsagar, learned counsel for the applicant and Shri M.I. Khan, learned P.O. for the respondents.

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

The father of applicant namely Krushnarao Narayanrao Veer was working as Talathi in Chandrapur District. Krushnrao N.

Veer expired on 29/01/2010. Thereafter, mother of applicant namely Veena Wd/o Krushnarao Veer had applied for appointment on compassionate ground. Her name was included in the waiting seniority list. Thereafter on 13/10/2004, the applicant applied for substitution of his name. Respondent no.3, the Collector, Chandrapur removed the name of applicant's mother from the waiting seniority list of appointment on compassionate ground, because, she has completed 45 years of age.

3. Respondent no.3 rejected the applicant's application on the ground that the G.R. dated 20/05/2015 not permitted for substitution. Hence, the applicant approached to this Tribunal for the following reliefs –

"1. Direct the respondent No. 3 the Collector, Chandrapur, to replace and include the name of the applicant at the place of his mother's name in the waiting list prepared for granting the compassionate appointment in the office of respondent No.3 by granting the seniority of her mother and grant compassionate appointment as per her qualification. In view of the order dated 07/10/2020 in WP No. 2014/2019."

4. Heard Shri M.I. Khan, learned P.O. for the respondents. The O.A. is strongly opposed by the respondents.

5. Heard Shri G.O. Gadge, learned counsel holding for Shri P.S. Kshirsagar, learned counsel for the applicant. During the course of arguments, he has pointed out the Judgment of Hon'ble Bombay

High Court, Aurangabad Bench 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 and the Judgment of Hon'ble Bombay High Court, Bench at Nagpur in Writ Petition No.2014/2019, in the case of **Sumit Bhojraj Kamde & ors. Vs. State of Maharashtra and ors.**, decided on 07/10/2020. The applicant had applied in the year 2014 before the G.R. of 2015. 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 has held that substitution before 2015 cannot be denied because of the G.R. dated 20/05/2015. The Hon'ble Bombay High Court, Bench at Nagpur in Writ Petition No.2014/2019, the Judgment of **Smt. Pushpabai Wd/o Rajesh Bisne & Ano. Vs. State of Maharashtra and others** was relied on and the Hon'ble Bombay High Court has held that the applicant had applied prior to 20/05/2015 is entitled to get appointment on compassionate ground.

6. 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 –

"1) 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 above cited Judgments, the applicant is entitled for substitution of his name in place of name of his mother. The respondents have not provided any employment to the mother of applicant. Her name was deleted because of completion of 45 years of age. The applicant had already applied in the year 2014. But it was rejected because of the G.R. dated 20/5/2015 not permitted the substitution.

8. In view of the above cited Judgments, the following order is passed –

ORDER

(i) The O.A. is allowed.

(ii) The respondent no.3, the Collector, Chandrapur is directed to substitute the name of applicant in place of name of his mother in the waiting seniority list for appointment on compassionate ground and provide him employment on compassionate ground, as per law / rules and procedure.

(iii) No order as to costs.

Dated :- 13/04/2023.

(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 : 13/04/2023*