

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 76 of 2020 (S.B.)

1. Rahul Gulabrao Mujawar,
Aged 24 years, Occu. Education
R/o Asti Tah. Bhatkuli, Dist: Amravati, Maharashtra- 444602.
2. Rekha Gulab Mujawar,
Aged 46 years, Occu. nil
R/o Ashti, Tah. Bhaktuli,
Dist: Amravati, Maharashtra-444801
3. Seema Gappur Satarkar
(Pre Marriage name Ku. Seema Gulab. Mujawar)
Aged 31 years, Occu. housewife
R/o Neri Mirapur post Waigaon Nipani,
Tah. Wardha, Abdalpur, Wardha, Maharashtra-442001
4. Sau. Savita Sandiprao Aundhkar
(Pre Marriage name Ku. Savita G. Mujawar,
Aged 27 years, Occu. House wife R/o Ashti, Bhaktuli,
Amravati, Maharashtra- 444801.
5. Sau. Nita Kishor Aundhkar
(Pre Marriage name Ku. Nita G. Mujawar) Aged 33 years,
Occu. Household R/o Ashti, Bhaktuli,
Amravati, Maharashtra- 444602.
6. Sheetal Gulabrao Mujawar,
Aged 29 years, Occu. Household
R/o Ashti, Bhaktuli, Amravati, Maharashtra- 444801.
7. Vaishali Gulabrao Mujawar,
Aged 26 years, Occu- Household,
R/o Ashti, Bhaktuli, Amravati, Maharashtra- 444801.

Applicants....

-- Versus --

1. State of Maharashtra through
its Home Secretary, Mantralaya, Mumbai.

2. District Commanding Officer
State Reserve Police Force,
Group No. 9, Amravati, Dist. Amravati.

Respondents.

**S/Shri S.N. Gaikwad, A.A., & Mrs. S.A. Dhawas, N.T. Shukla, S.B. Bawanthade, Advocates for the applicants.
Shri A.M. Khadatkhar, learned P.O. for respondents.**

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

Dated :- 09/03/2023.

JUDGMENT

Heard Shri S.N. Gaikwad, learned counsel for the applicants and Shri A.M. Ghogre, learned P.O. for the respondents.

2. The father of applicant no.1 namely Gulabrao Sardar Mujawar was working as a Constable in the Maharashtra State Reserve Police Force. He died on 15/07/2007 while he was in service. The mother of applicant no.1 i.e. applicant no.2 applied for appointment on compassionate ground. The applicant no.2 requested the respondents to provide employment to her son after attaining the age of majority. But, her application was not considered and name of applicant no.2 was removed from the waiting seniority list as per the order dated 21/11/2014. As per communication dated 16/01/2019, it was informed to the applicant no.1 that his name cannot be taken / substituted in place of his mother as per the Govt. G.R. dated

20/05/2015. Hence ,the applicants approached to this Tribunal for the following reliefs –

“(1) To direct the respondents to consider nomination of the applicant no.1 on the compassionate on the account of death of his father Gulabrao Mujawar as per the Policy of the State Government.

(2) To direct the respondents to nominate the applicant no.1 to be the candidate to be considered for compassionate appointment on the account of death of his father Gulabrao Mujawar.

(3) To direct the respondents to insert the name of the applicant no.1 as a nominee to be considered for the appointment on the account of death of his father Gulabrao Mujawar.

(4) To saddle the costs of the proceedings on the respondents.

(5) Grant any other relief which this Hon’ble Court deems fit and proper in the facts and circumstances of the present case, in the interest of justice.”

3. Heard Shri A.M. Ghogre, learned P.O. for the respondents. It is submitted that applications were moved within time. The G.R. says that substitution is not provided. Hence, the O.A. is liable to be dismissed.

4. Heard Shri S.N. Gaikwad, learned counsel for the applicants. He has pointed out the Judgment of 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 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."

3. The direction was given to the State Government to delete the unreasonable restriction imposed by the G.R. dated 20/05/2015, but the State Government has not deleted the unreasonable restriction

imposed by the G.R. dated 20/05/2015. Hence, 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 substitution is legal. Hence, the following order –

ORDER

(i) The O.A. is allowed.

(ii) The respondents are directed to enter the name of applicant no.1 in the waiting list and provide the employment, as per the rules.

(iii) No order as to costs.

Dated :- 09/03/2023.

(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 : 09/03/2023.*