

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 840 of 2021 (S.B.)

Raj S/o Gajanan Taraiya,
Aged about 22 years, Occ. Student,
R/o Aatwadi Bazar, Jai Bharat Square,
Yavatmal-445 001.

Applicant.

Versus

- 1) The State of Maharashtra
through its' secretary, Revenue and Forest Department,
Mantralaya Mumbai-32.
- 2) Deputy Forest Conservation Officer,
Melghat Tiger Project, Sipna, Wildlife Division,
Paratvada.
- 3) Chief Forest Conservation Officer,
Division Amravati, near Zilla Parishad,
Opp. District Court, Amravati. (M.S. 444 602).

Respondents.

S/Shri Ashish Chaware, S. A. Chaware, Adv. for the applicant.
Shri M.I. Khan, learned P.O. for respondents.

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

Dated :- 18/04/2023.

J U D G M E N T

Heard Shri Ashish Chaware, 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 was working as a Forest Guard with respondent no.2. He died on 08/10/2003 while he was in

employment of the respondents department. That time applicant was minor aged about 5 years. Therefore, the mother of applicant was applied for appointment on compassionate ground. The applicant's mother was informed by the respondents that there was no vacant post in Group-D category, but the post of Tractor Cleaner was vacant. The applicant's mother shown willingness to join the said service, but she could not be appointed due to the reason of Code of Conduct for Lok Sabha Election given by respondent no.3. Thereafter, she was never called for appointment. The applicant made application dated 11/07/2018 for substitution his name in place of his mother. The respondents have informed the applicant that as per G.R. of 2017, the substitution is not permitted and therefore his application was rejected. Therefore, the applicant approached to this Tribunal for direction to the respondents to substitute his name in place of name of his mother and provide him employment on compassionate ground.

3. The O.A. is strongly opposed by respondent nos.2 and 3. Before applicant's application dated 11/07/2018, there was G.R. of 2017 and therefore his application is rightly rejected.

4. The G.R. of 2017 is consolidation of all the earlier G.Rs. in respect of appointment on compassionate ground. The G.R. dated 20/05/2015 is also mentioned in the G.R. of 2017. As per the G.R. of 2015, the substitution is 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 held that the unreasonable restriction imposed by the G.R. dated 20/05/2015 is liable to be deleted and therefore direction was given to the State of Maharashtra to delete the unreasonable restriction imposed in the G.R. dated 20/05/2015. The Government of Maharashtra not complied the order of Hon'ble Bombay High Court, Bench at Aurangabad.

5. The learned P.O. has submitted that review is pending against the said Judgment. But nothing is on record to show that 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 quashed or set aside by the Hon'ble Apex Court. 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 –

"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.”

6. 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 permissible. Hence, the following order –

ORDER

(i) The O.A. is allowed.

(ii) The respondents are directed to enter the name of applicant in the waiting seniority list for appointment on compassionate ground and provide him employment, as per rules.

(iii) No order as to costs.

Dated :- 18/04/2023.

(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 : 18/04/2023.*