

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION No. 10 of 2019 (SB)**

Sangita D/o Shankar Bagmare,  
Aged about 24 years, Occ. Labour,  
R/o Nayanpur, Tah. Desaiganj, Dist. Gadchiroli.

**Applicant.**

**Versus**

- 1) State of Maharashtra,  
through Principal Secretary,  
Forest Department, Mantralaya, Mumbai-32.
- 2) Collector, District Gadchiroli.
- 3) Chief Forest Conservator Officer, Dist. Gadchiroli.
- 4) Forest Conservator Officer, Dist. Chandrapur.
- 5) Deputy Forest Conservator Officer,  
Division Wadsa, Gadchiroli.

**Respondents.**

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**Ms. Naziya S. Pathan, Advocate for the applicant.**  
**Shri A.M. Ghogre, P.O. for the respondents.**

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**Coram :- Hon'ble Shri Justice M.G. Giratkar,  
Member (J).**

**Dated :- 08/12/2021.**

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**JUDGMENT**

Heard Ms. N.S. Pathan, learned counsel for the applicant and Shri A.M. Ghogre, learned P.O. for the respondents.

2. The applicant is a daughter of deceased Shankar Bagmare. This O.A. is with a prayer for direction to the respondents to provide employment on compassionate ground and set aside the impugned order dated 26/7/2018 passed by the respondent no.3.

3. The father of applicant was working as Forest Labour with the respondent no.5. He died on 20/3/2002. Immediately thereafter her mother, i.e., wife of deceased applied for compassionate appointment on 21/2/2003. The name of mother of applicant was included in the waiting list. Thereafter she was informed by the order dated 8/2/2010 that her name was deleted as she has completed age of 40 years. The applicant's mother applied to the respondent no.3 on 22/2/2010 for insertion of name of applicant in the waiting list. The said request was turned down by the respondents, therefore, the applicant approached before this Tribunal by filing O.A. 243/2017. It was decided on 13/4/2018. The O.A. was allowed and this Tribunal directed to the respondent no.5 to consider the application filed by the applicant for grant of appointment on compassionate ground on its own merits and shall take decision thereon within a period of three months from the date of order. Thereafter on 26/7/2018, the respondent no.3 passed the order and informed the applicant that as per the G.R. dated 20/5/2015, once the name of legal heir of the deceased is taken on waiting list, thereafter, no other name of family members can be taken in waiting list. Therefore, the representation of the applicant was rejected.

4. Heard learned P.O. The O.A. is strongly opposed by the respondents. It is submitted that in view of the G.R. dated 20/5/2015

the name of applicant cannot be included in the waiting list. The respondents had formed the Committee of three members and that Committee submitted the report that the name of applicant cannot be included in the waiting list.

5. Heard learned counsel for the applicant. She has pointed out the Judgment of Hon'ble Bombay High Court, Bench at Nagpur in Writ Petition No.5944/2018 and Judgment of M.A.T., Principal Bench, Mumbai in O.A. 396/2018.

6. In Writ Petition No.5944/2018 in case of **Smt. Pushpabai Wd/o Rajesh Bisne & Ano. Vs. State of Maharashtra & Ors.**, Hon'ble Bombay High Court, Bench at Nagpur held that the G.R. of 2015 cannot be given retrospective effect to the applications moved prior to the G.R. of 2015. In that case the mother applied for substitution of name of her son in the year 2010 long before the G.R. of 2015. Hence, the Writ Petition was allowed and the respondents authority were directed to include the name of petitioner no.2 in the register maintained for compassionate appointment and provide employment.

7. In O.A. No.396/2018 decided by the M.A.T., Principal Bench, Mumbai, Tribunal had considered the decision of Hon'ble Supreme Court in the case **Supriya S. Patil Vs. State of Maharashtra** and held in paras-12 & 15 as under –

12. At this juncture, it would be also apposite to refer the decision of Hon'ble Supreme Court in **2018 (4) SLR 771 (Supriya S. Patil Vs. State of Maharashtra)** which is squarely applicable to the present situation. In that case also, the name of widow was empanelled under the compassionate appointment scheme but later it was declined on account of crossing the age. Thereafter, her daughter made an application for substitution of her name in place of widow. The claim was opposed on the ground that the family had already managed to survive for 10 years, and therefore, there was no immediate necessity. The Hon'ble Supreme Court held that only because family had managed to survive 14 years, it cannot be the reason for rejection and whether the family pulled on begging or borrowing should not have been the consideration. In Para No.3, the Hon'ble Supreme Court held as under :-

*"3. We find from the Judgment of the High Court that the main reason for rejecting the case of the appellant was that the family had managed to survive for over ten years and, therefore, there was no immediate necessity. We are afraid that this cannot be a major reason for rejection. Whether the family pulled on begging or borrowing also should have been one consideration. We do not propose to deal with the matter any further in the peculiar facts of this case. The widow had already been empaneled for appointment under the Compassionate Appointment Scheme, but was declined the benefit only on account of crossing the age. We are of the view that in the peculiar facts of this case, her daughter should be considered for compassionate appointment. Ordered accordingly."*

15. The necessary corollary of aforesaid discussion leads me to conclude that the impugned communication dated 19.09.2017 and 17.11.2017 rejecting the claim for substitute of heir is arbitrary and unsustainable in law. Only because there is no provision for substitution of heir in scheme, it could not have been the ground for rejection of scheme in the light of catena of decisions referred to above and the object of this scheme. There is no such express bar. The Respondents ought to have considered the request of son for providing appointment on compassionate ground to fulfill the object of scheme. The O.A, therefore, deserves to be allowed. Hence, I pass the following order.

8. In the present case the name of applicant was not included in the waiting list in view of the G.R. 20/5/2015. In the representation dated 22/2/2010 the mother of applicant requested the respondent no.3 to include the name of her daughter, i.e., applicant in the waiting list. It was not decided for a long period and therefore the applicant had approached before this Tribunal and filed O.A. 243/2017.

9. The scheme for appointment on compassionate ground is not followed by the respondents for a long time, no service was provided to the mother of applicant. When she attained the age of 40 years, her name was deleted and informed her accordingly.

10. The applicant, i.e., daughter of deceased employee applied for compassionate appointment. The Hon'ble Supreme Court has observed in the case of **Supriya S. Patil Vs. State of Maharashtra, 2018 (4) SLR 771** as under –

*“3. We find from the Judgment of the High Court that the main reason for rejecting the case of the appellant was that the family had managed to survive for over ten years and, therefore, there was no immediate necessity. We are afraid that this cannot be a major reason for rejection. Whether the family pulled on begging or borrowing also should have been one consideration. We do not propose to deal with the matter any further in the peculiar facts of this case. The widow had already been empaneled for appointment under the Compassionate Appointment Scheme, but was declined the benefit only on account of crossing the age. We are of the view that in the peculiar facts of this case, her daughter should be considered for compassionate appointment. Ordered accordingly.”*

11. The mother of applicant immediately applied for compassionate appointment immediately after the death of her husband, but no any appointment was provided to her. Her name was removed from the waiting list after completion of age of 40 years. Immediately on 22/2/2010 she applied for appointment of her daughter, i.e., the applicant on compassionate ground. This request letter was rejected only on the basis of G.R. of 2015. The Hon'ble Bombay High Court, Bench at Nagpur in case of **Smt. Pushpabai Wd/o Rajesh Bisne & Ano. Vs. State of Maharashtra & Ors.**, has observed that G.R. of 2015 cannot be given retrospective effect. The representation was also in the year 2010 and therefore the respondents / employer was directed to substitute the name of son of Smt. Pushpabai in her place.

12. In that view of the matter, the following order is passed –

**ORDER**

- (i) The O.A. is allowed.
- (ii) The respondents are directed to include the name of applicant in the waiting list and provide her suitable employment as per her qualification, as per the rules.

**Dated** :- 08/12/2021.

**(Justice M.G. Giratkar)**  
**Member (J).**

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 Member (J).

Judgment signed on : 08/12/2021.

Uploaded on : 10/12/2021.