

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 181 of 2020 (SB)

Niraj S/o Ashok Jamnekar,
Aged about 28 years, Occupation : Nil,
R/o C/o Banduji Bakode, near Dr. Chafle Hospital,
Rahul Nagar, Bicchu Tekadi Camp Road,
Amravati.

Applicant.

Versus

- 1) State of Maharashtra,
through its Additional Chief Secretary,
Department, Mantralaya, Mumbai.
- 2) Commissioner of Police,
Amravati City, Amravati.
- 3) Collector,
Amravati, District Amravati.

Respondents.

S/Shri N.D. Thombre, H.G. Balki, Advocates for the applicant.
Shri M.I. Khan, learned P.O. for respondents.

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

Date of Reserving for Judgment : 13th March,2022.

Date of Pronouncement of Judgment : 27th April,2022.

JUDGMENT

(Delivered on this 27th day of April, 2022)

Heard Shri N.D. Thombre, learned counsel for the applicant and Shri S.A. Sainis, learned P.O. for the respondents.

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

The applicant is the son of deceased Police Constable who was working with the respondent no.2. The father of applicant died on 02/03/2001 while on duty. After the death of father of applicant, his mother namely Smt. Sangita Jamnekar applied for appointment on compassionate ground. Her name was kept in the waiting list. After completion of 18 years of age of applicant, the name of applicant was placed in the waiting list for the appointment on compassionate ground in place of his mother.

3. The respondent no.2 suddenly by communication dated 02/12/2019 addressed to respondent no.3 deleted the name of applicant from the waiting list without there being by granting any opportunity and intimation to the applicant. Hence, the present O.A. for direction to the respondents.

4. As per the submission of learned counsel for the applicant Shri N.D. Thombre, the name of applicant appears to be deleted from the waiting list in view of the G.Rs. dated 20/05/2015 and 21/09/2017. The Hon'ble Bombay High Court has considered the said G.R. in the case of ***Dnyaneshwar S/o Ramkishan Musane Vs. State of Maharashtra and others 2020 (5), Mh.L.J.*** The Hon'ble Bombay High Court has held that the restriction imposed by the G.R. 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.” In the case of **Nagmi Firdos Mohmmad Salim & Ano. Vs. State of Maharashtra & Ors.**, the Hon’ble Bombay High Court has held as under –

“We have considered the rival contentions and we have perused Clause 21 of the G.R. dated 21.9.2017. In that Clause, it has been stated that there is no policy of permitting change of name that is existing on the waiting list, maintained by the concerned Employer. However, in the event of death of such person who is on the waiting list, such change is permissible. It is however seen that a similar Clause as Clause 21 was present in G.R. dated 20.5.2015 and it has been held in Dnyeshwar Ramkishan Musane (Supra) that such restriction for substitution of name of a family member was unreasonable and it was permissible for the name of one legal representative to be substituted by the name of another legal representative of the deceased employee. We find that the aforesaid position has been reiterated in W.P. No.3251 of 2020, decided on 24.8.2021 at this Bench (Smt. Vandana wd/o Shankar Nikure and one another V/s State of Maharashtra and two others).”

5. From the submission of Id. P.O., it appears that the name of applicant is deleted in view of G.Rs. of 2015 & 2017. The Id. P.O. has submitted that once the name of mother of applicant was taken on waiting list, then the substitution is not permitted, unless she died. Both the G.Rs. are considered by the Hon’ble High Court and come to the conclusion that restrictions imposed in the said G.Rs. are

unreasonable. In the present case, name of mother of applicant was included in the waiting list, on her request the name of applicant was substituted in the waiting list of 2017 and his name was at Sr.No.13 of the seniority list. The respondents have wrongly deleted the name of applicant from the seniority list. In that view of the matter, the following order –

ORDER

(i) The O.A. is allowed.

(ii) The respondent nos.2 and 3 are directed to include the name of applicant in the waiting list of appointment on compassionate ground maintained before 2019 and keep him at the same serial number kept in the waiting list published in 2017.

(iii) The respondent no.2, the Commissioner of Police, Amravati and respondent no.3, the Collector, Amravati are directed to grant appointment to the applicant on compassionate ground, as per the rules.

(iv) No order as to costs.

Dated :- 27/04/2022

(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 : 27/04/2022

Uploaded on : 27/04/2022_{ok}