

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 191 of 2022 (S.B.)

Madhuri D/o Hariram Headau,
Aged about 27 years, Occ. Student,
R/o C/o Ramgopal Wasudeo Nandanwar,
Near Labour Office Road, Sai Colony Gowardhan Nagar,
Tahsil Tumsar, District Bhandara-441 912.

Applicant.

Versus

- 1) State of Maharashtra,
through Principal Secretary,
Revenue and Forest Department, Mantralaya, Mumbai-32.
- 2) The Collector, District Gondia.
- 3) The Tahsildar, Tahsil Tiroda,
District Bhandara.

Respondents.

Naziya S. Pathan, Mangesh D. Raut, Advocates for the applicant.

Shri S.A. Sainis, P.O. for respondents.

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

Dated :- 19/09/2022.

JUDGMENT

Heard Mrs. Naziya S. Pathan, learned counsel for applicant and Shri S.A. Sainis, learned P.O. for respondents.

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

Deceased Hariram Ramkrushna Hedau was working on the post of Senior Clerk with respondent no.3. While discharging his

duty he died on 11/07/2008. After the death of Hariram Hedau, his wife Jaywanti had applied for appointment on compassionate ground. She applied on 08/09/2008 within a prescribed time. Her name was placed in the waiting list of appointment on compassionate ground.

3. The mother of applicant applied on 23/11/2016 requesting the respondents to provide employment to her daughter, i.e., the applicant. The respondents have not replied on the said letter dated 23/11/2016. The respondents have informed the applicant's mother by letter dated 24/03/2017 stating that the name of applicant's mother was struck down from the waiting list, because, she has completed 45 years of age and therefore as per the G.R. dated 06/12/2010 she cannot get the employment on compassionate ground.

4. In the reply, it is mentioned that in view of the G.R. of 2017 substitution is not permissible. Hence, the O.A. is liable to be dismissed.

5. The Government has issued various G.Rs. prior to the year 2017 for providing service to the dependent / legal heirs of deceased employee who died during service. The G.R. of 2017 is the compilation of all the earlier G.Rs. As per the G.R. dated 20/5/2015 substitution is not permissible.

6. The respondents have not provided any service to the mother of applicant though she applied in the year 2008 itself. She

waited for a long period and on 23/11/2016 she requested the respondents to provide the service to her daughter, i.e., the applicant because she has completed 45 years of age. The respondents not considered her application dated 23/11/2016.

7. The respondents' contention in the reply shows that the substitution is not permissible. The 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**, has held that the restriction imposed by the Government about non substitution of the name of other legal representative as per the G.R. dated 20/5/2015 is unreasonable and therefore directed the Government of Maharashtra to delete the same.

8. In view of the Judgment of the 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**, it is clear that the substitution is permissible. The daughter of deceased, i.e., the applicant is eligible to get the appointment on compassionate ground. Hence, the following order –

ORDER

- (i) The O.A. is allowed.
- (ii) The respondents are directed to substitute the name of applicant in place of the name of her mother in the seniority list for appointment

on compassionate ground and provide suitable employment, as per rules.

(iii) No order as to costs.

Dated :- 19/09/2022.

**(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 : 19/09/2022.

Uploaded on : 22/09/2022.

ok*