

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 275 of 2021 (S.B.)

(1) Pratik S/o Late Vijay Bhagat,
Aged about 19 years,
Behind Vilas Nagar,
Bजारंग Nagar, Amravati.

(2) Smt. Anita Wd/o Vijay Bhagat,
Aged about 40 years,
Behind Vilas Nagar,
Bजारंग Nagar, Amravati.

Applicants.

Versus

1) State of Maharashtra,
through its Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai-32.

2) The Chief Conservator of Forest (Territorial),
Amravati Circle, Amravati.

3) The Dy. Conservator of Forest,
Akot Wild Life Division, Akot.

Respondents.

S/Shri D.M. Kakani, G.K. Bhusari, Advocates for the applicants.
Shri M.I. Khan, learned P.O. for respondents.

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

Dated :- 08/08/2022.

JUDGMENT

Heard Shri G.K. Bhusari, learned counsel for the applicants and Shri M.I. Khan, learned P.O. for the respondents.

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

The applicant no.1 is the son and applicant no.2 is the widow of deceased employee late Shri Vijay Bhauraoji Bhagat, who had worked as a Forest Guard, Class-IV employee in the establishment of respondents. Shri Vijay Bhauraoji Bhagat died on 16/06/2014 while he was in duty.

3. The applicant no.2 the mother of applicant no.1 made application for grant of compassionate appointment on 20/06/2014. Evenafter waiting for a long period, no action was taken by the respondents. The applicant no.2 is continuously suffering from financial stringencies. The respondent no.3 by communication dated 12/02/2015 informed the respondent no.2 that the name of applicant no.2 is shown in the waiting list at Sr.No.20. The respondents have not provided any employment on compassionate ground to the applicant no.2. Now the applicant no.2 because of her old age/ health ground is not in a position to do duty. Therefore, the applicant no.1 who now becomes major applied for substitution his name in place of his mother's name. His request is not considered and rejected by the respondents in view of the G.R. of 2015. Therefore, the applicants approached to this Tribunal for direction to the respondents to include the name of applicant no.1 in the seniority list in place of his mother, i.e., the applicant no.2.

4. The application is strongly opposed by respondent nos.2 and 3. It is submitted that as per the G.R. dated 20/5/2015 substitution of name is not permissible unless the person who is in the seniority list dies.

5. Heard Shri G.K. Bhusari, learned counsel for applicants. He has pointed out decision of 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 G.R. dated 20/05/2015 is unreasonable for not substitution of name only on the ground that the name of other legal representative is in the seniority list, the name of that person who is in the seniority list shall not be deleted unless he dies. The Hon'ble Bombay High Court in the case of **Dnyaneshwar S/o Ramkishna Musane Vs. State of Maharashtra & others** has held that the restriction imposed by the G.R. of 2015 is unreasonable restriction and therefore direction was given to the State Government to delete the restriction imposed in the said G.R. It appears that the State Government is not complying the order of Hon'ble Bombay High Court. Even after passing the said Judgment, the concerned authorities are giving the weightage to the G.R. of 2015 and rejecting the claims of applicants / legal heirs who approach for substitution of their names. This Tribunal has considered the decision

of Hon'ble Bombay High Court in the case of **Dnyaneshwar S/o Ramkishna Musane Vs. State of Maharashtra & Others.**, in the various judgments.

6. The name of mother of applicant no.1, i.e., applicant no.2 is taken in the seniority list for appointment on compassionate ground. As per the submission of Id. P.O. Shri M.I. Khan, her name is in the seniority list and she will get the employment.

7. It is pertinent to note that applicant no.2, i.e., mother of applicant no.1 has given no objection for appointment of her son, i.e., applicant no.1. She has stated in her application / no objection that she is not keeping well and therefore she is unable to do the duty and now her son, i.e., applicant no.1 is the major and he can do the duty.

8. The learned P.O. has submitted that the G.R. dated 21/09/2017 is not cancelled. It is pertinent to note that the G.R. of 2017 is accumulation of all earlier G.Rs. and all the guidelines in respect of compassionate appointment are given in details in the G.R. dated 21/9/2017 and all the earlier G.Rs. including G.R. of 2015 are quoted in the G.R. dated 21/9/2017. Therefore, it cannot be said that it is not a G.R. of 2015. The claim of applicants for substitution is rejected as per the G.R. of 2015. The Hon'ble Bombay High Court in case of **Dnyaneshwar S/o Ramkishna Musane Vs. State of**

Maharashtra & Others has specifically directed to the State Government as under -

“I) We hold that the restriction imposed by the Government Resolution dated 20.05.2015 that if name of 928-WP-6267-2018.odt 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.”

9. In view of the Judgment of Hon'ble Bombay High Court in the case of **Dnyaneshwar S/o Ramkishna Musane Vs. State of Maharashtra & Others**, the rejection of application of applicant no.1 for substitution in place of the name of his mother, i.e., applicant no.2 is not proper. Hence, the following order –

ORDER

- (i) The O.A. is allowed.
- (ii) The respondents are directed to include the name of applicant no.1 in place of the name of applicant no.2 (mother of applicant no.1) at the same seniority in which the applicant no.2 is shown.
- (iii) The respondents are directed to provide the employment on compassionate ground, as per rules.
- (iv) No order as to costs.

Dated :- 03/08/2022.

(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 : 03/08/2022.

Uploaded on : 05/08/2022.

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