

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION No. 552 of 2020 (S.B.)**

Smt. Anuradha W/o Ashish Agarkar,  
Nee Ku. Anurdha D/o Arun Shukla  
Age about 28 years, Occupation : Nil,  
Resident of Plot No.98, behind old Dande Hospital,  
Near Mata Mandir, Marar Toli, Ravi Nagar,  
Nagpur – 440 001.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
Home Department through its Secretary,  
Mantralaya, Madam Cama Road, Hutatma  
Rajguru Square, Nariman Point, Mumbai-400 032.
- 2) The Office of Commissioner of Police,  
Nagpur City, Sadar, Nagpur-440 001.

**Respondents.**

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**S/Shri Rohit Joshi, Gaurav Sengar, Advocate for the applicant.**  
**Shri A.P. Potnis, learned P.O. for respondents.**

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

**Dated :- 24/06/2022.**

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**JUDGMENT**

Heard Shri G. Sengar, learned counsel for the applicant  
and Shri A.P. Potnis, learned P.O. for the respondents.

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

The father of applicant namely Arun S. Shukla was  
working under the respondent no.2 as Head Constable. The father of  
applicant died on 17/4/2006 while he was on duty. The mother of

applicant applied for compassionate appointment on 23/10/2013. She attended the office of applicant 28/10/2013. She was informed that she has crossed 45 years of age and therefore she cannot claim appointment on compassionate ground. On 28/2/2014, the applicant i.e. the daughter of deceased employee requested to substitute her name in place of the name of her mother. The respondent no.1 issued letter dated 1/10/2018 stating that the name of applicant cannot be substituted in place of her mother in view of the Govt. G.R. dated 21/9/2017.

3. There is no dispute about the death of deceased employee. As per the Govt. policy / G.Rs. it is the duty of the concerned department to inform the dependents of the deceased employee about the policy of the Government for appointment on compassionate ground. The Govt. G.R. dated 21/9/2017 is the consolidation of all earlier G.Rs. As per G.R. dated 20/5/2015, there is a restriction for substitution of name of the dependent of the deceased.

4. The Hon'ble Bombay High Court, Bench at Aurangabad In the case of **Dnyaneshwar s/o Ramkishan Musane Vs. State of Maharashtra & Ors.,** in Writ Petition No.6267/2018, decided on 11/3/2020 held that "the prohibition imposed by the Government Resolution is arbitrary, irrational and violates the fundamental rights,

therefore, the petitioner is entitled for compassionate appointment.”

The Hon'ble Bombay High Court has further held that “the prohibition in the G.R. stating that substitution of name of other dependents are not permissible is illegal, arbitrarily and therefore directed the Government to delete the same.” The operative part of the Judgment / order is reproduced as under -

*“ 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”.*

5. In view of the Judgment of Hon'ble Bombay High Court, Bench at Aurangabad in case of **Dnyaneshwar s/o Ramkishan Musane Vs. State of Maharashtra & Ors.**, it is clear that the condition mentioned in the G.R. of 2005 is not proper. The respondents should have included the name of the applicant in place of the name of her mother. 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 on the waiting list for appointment on compassionate ground at the same seniority as it was of her mother and provide employment as per the rules.

(iii) No order as to costs.

**Dated** :- 24/06/2022.

dnk.

**(Justice M.G. Giratkar)**  
**Vice Chairman.**

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 : 24/06/2022.

Uploaded on : 24/06/2022.

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