

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 865 of 2022 (S.B.)

- (1) Roshan S/o Sunil Patil,
Aged about 23 years, Occ. Education
- (2) Smt. Sangita Wd/ o Sunil Patil,
Aged about 48 years, Occ. Household,
Both R/o Room No.3, Chakradhar Row House,
Pawar Sankul, Ashok Nagar, Satpur, District Nashik.

Applicants.

Versus

- 1) State of Maharashtra,
through its Secretary, Home Department,
Mantralaya, Mumbai-32.
- 2) Superintendent of Police, Washim,
District Washim.
- 3) Deputy Superintendent of Police,
Washim, District Washim.
- 4) District Collector,
Washim, Tq. & Dist. Washim.

Respondents.

Shri P.B. Patil, Advocate for the applicants.
Shri A.M. Khadatkhar, learned P.O. for respondents.

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

Dated :- 11/01/2023.

JUDGMENT

Heard Shri Vinay Rathi, learned counsel holding for Shri P.B. Patil, learned counsel for the applicants and Shri A.M. Khadatkhar, learned P.O. for the respondents.

2. The learned P.O. seeks time to file reply.

3. As per the submission of learned counsel for the applicants, the matter is covered by the Judgment of 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**. Hence, the matter is heard finally.

4. Case of the applicants in short is as under –

The father of applicant no.1 was working as a Police Constable in the establishment of respondent no.2. He died on 26/03/2005 while he was in service. The applicant no.2, the mother of applicant no.1 submitted application for employment on compassionate ground. Her name was taken in the waiting seniority list for appointment on compassionate ground. However, the respondents could not provide employment to her. Therefore, the applicant no.2 filed application for substitution of name of her son in her place, who attained the age of majority on 05/01/2017. The application was made on 30/06/2017. The applicants made several representations, but the respondents have not substituted the name of applicant no.1. They have not provided any employment to the mother of applicant no.1, i.e., applicant no.2.

5. Hence, the applicants approached to this Tribunal for direction to the respondents to substitute the name of applicant no.1.

6. Heard Shri Vinay Rathi, learned counsel holding for Shri P.B. Patil, learned counsel for the applicants. He has pointed out the Judgment of this Tribunal in O.A. No.870/2018, decided on 22/11/2021 and the Judgment in O.A. No.464/2022, decided on 02/01/2023.

7. The documents filed on record show that the father of applicant no.1 was working as a Police Constable. He died in harness on 26/03/2005. The applicant no.2 applied for appointment on compassionate ground on 17/06/2005. Her name was recorded in the waiting seniority list. But the respondents have not provided any employment to her. Therefore, the applicant no.2 after attaining the age of majority of applicant no.1, applied for substitution of the name of applicant no.1. The said application is not decided.

8. The respondents may reject the same on the ground that there is no provision for substitution as per the G.R. of 2015.

9. 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**, decided on 11/3/2020, held 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.”

10. As per the decision of Hon'ble Bombay High Court, Bench at Aurangabad in the case of **Dnyaneshwar S/o Ramkishna Musane Vs. State of Maharashtra & Others,** substitution is permitted.

Hence, the following order –

ORDER

(i) The O.A. is allowed.

(ii) The respondents are directed to substitute the name of applicant no.1 in place of the name of his mother, i.e., applicant no.2 in the

same seniority list and at the same serial number and provide him employment, as per rules.

(iii) No order as to costs.

Dated :- 11/01/2023.

(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 : 11/01/2023.*