

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No. 942 of 2020 (S.B.)**

1. Ayush S/o Hetram Ganvir,
Aged about 24 yrs, Occ. Student,
R/o Panchsheel Ward, Durga Mandir Chowk,
Sakoli, Distt. Bhandara.
2. Smt. Mandabai Wd/o Hetram Ganvir,
Aged about 46 yrs, Occ. Household, R/o Panchsheel Ward,
Durga Mandir Chowk, Sakoli, Distt. Bhandara.

Applicant.**Versus**

1. State of Maharashtra, through Principal Secretary,
Revenue Department, Mantralaya, Mumbai-32.
2. District Collector, Bhandara, Distt. Bhandara.

Respondents.

Shri Shashibhushan Wahane, Advocate for the applicant.**Shri A.M. Khadatkhar, learned P.O. for the respondents.**

**Coram :- Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.****Dated :- 22/01/2024.**

JUDGMENT

Heard Shri Shashibhushan Wahane, learned counsel for the applicant and Shri A.M. Khadatkhar, learned P.O. for the respondents.

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

The father of applicant no.1 was working as a Talathi. He died in accident on 28/08/2010 at the age of 49 years while he was in

service. The applicant no.1 is son and applicant no.2 is the wife of deceased Hetram G. Ganvir. The name of applicant no.2 was taken in the waiting seniority list for appointment on compassionate ground. Her name was removed by the respondents because she has completed the age of 45 years as per the G.R. dated 21/09/2017. Before removal of her name from the waiting seniority list, she has prayed for substitution of name of her son i.e. applicant no.1 in the waiting seniority list for appointment on compassionate ground. The respondents have informed the applicant no.2 as per letter dated 16/05/2015 stating that her name is on the waiting seniority list and therefore the name of applicant no.1, i.e., son cannot be entered / substituted in the waiting seniority list as per the G.R. dated 20/05/2015.

3. During the course of submission, the learned counsel for applicant has pointed out the Judgment of this Tribunal in O.A.No.162/2023, decided on 23/11/2023.

4. The G.R. of 2017 is the consolidation of all earlier G.Rs. in respect of appointment on compassionate ground. As per the G.R. dated 20/05/2015, substitution was not provided. The said condition was challenged before the Hon'ble Bombay High Court, Bench at Aurangabad. The Hon'ble High Court in the case of ***Dnyaneshwar S/o Ramkishna Musane Vs. State of Maharashtra & Others*** has

held that the unreasonable restrictions imposed by the G.R. dated 20/05/2015 is not legal and proper and therefore directed the Government of Maharashtra to remove the unreasonable restrictions imposed by the G.R. dated 20/05/2015.

5. In the present case, the name of applicant no.2 was inserted in the waiting seniority list. Her name was removed from the waiting seniority list in the year 2020, because, she had completed the age of 45 years. Before the year 2020, the applicant no.2 applied to substitute the name of applicant no.1 and provide him the employment on compassionate ground. The said application was rejected by the respondents on the ground that as per the G.R. dated 20/05/2015 substitution is not provided. The Judgment of the Hon'ble Bombay High Court, Bench at Aurangabad in the case of ***Dnyaneshwar S/o Ramkishna Musane Vs. State of Maharashtra & Others*** is very clear. The Hon'ble Bombay High Court, Bench at Aurangabad in the case of ***Dnyaneshwar S/o Ramkishna Musane Vs. State of Maharashtra & Others*** has passed the following order –

"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."*

6. In view of the Judgment of the Hon'ble Bombay High Court, Bench at Aurangabad in the case of ***Dnyaneshwar S/o Ramkishna Musane Vs. State of Maharashtra & Others***, the following order is passed—

ORDER

(i) The O.A. is allowed.

(ii) The respondents are directed to substitute the name of applicant no.1 in place of name of his mother Smt. Mandabai Hetram Ganvir in the waiting seniority list for appointment on compassionate ground and provide him employment, as per rules.

(iii) No order as to costs.

Dated :- 22/01/2024.

**(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 : 22/01/2024.