

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION No. 990 of 2022 (S.B.)**

Shri Shrikant S/o. Omkar Gaurkhede,  
Aged about 31 Years, Occ.: Nil,  
R/o. At post Ridhora, Tah. Katol,  
District Nagpur- 441 302.

**Applicant.**

**Versus**

1. The State of Maharashtra,  
through its Secretary,  
Department of Rural Development and Public Works,  
Mantralaya, Mumbai - 440 032.
2. Chief Engineer,  
Public Works Regional Division, Nagpur.
3. Superintending Engineer,  
Public Works Department Division No.2, Nagpur.
4. Executive Engineer, Public Work Department No.2, Nagpur.
5. Sub-Divisional Engineer,  
Public Work Department, Sub-Division, Katol.

**Respondents.**

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**S/Shri A.B. and A.A. Moon, N. Borkar, Advs. for the applicant.**  
**Shri V.A. Kulkarni, learned P.O. for respondents.**

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

**Dated :- 18/07/2023.**

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**JUDGMENT**

Heard Shri A.B. Moon, learned counsel for the applicant  
and Shri V.A. Kulkarni, learned P.O. for the respondents.

2. The applicant had approached to this Tribunal by filing  
O.A.No.194/2020. By the Judgment dated 17/03/2022, this Tribunal  
has passed the following order –

*“(i) The O.A. is allowed.*

*(ii) The respondents are directed to consider application dated 20.2.2008 (Annexure A-7) for giving appointment to the applicant by including his name in the common seniority/ waiting list subject to fulfilment of eligibility criteria and as per Rules.*

*(iii) No order as to costs.”*

3. The respondents have wrongly rejected the claim of applicant on the ground that the substitution is not provided after removing the name of applicant’s mother after completion of 45 years of age. Therefore, the applicant has challenged the order dated 13/06/2022.

4. The O.A. is opposed by the respondents. It is submitted that the substitution is not provided as per the G.R. dated 21/09/2017. From the perusal of the Judgment in O.A.194/2020 it is clear that the Judgment of Hon’ble Bombay High Court, Bench at Aurangabad in the case of ***Dnyaneshwar S/o Ramkishna Musane Vs. State of Maharashtra & Others*** and the Judgment of Hon’ble Bombay High Court, Bench at Nagpur in the case of ***Smt. Vandana wd/o Shankar Nikure and one another Vs. State of Maharashtra and two others*** are considered by this Tribunal. This Tribunal has directed the respondents that in view of the Judgment of Hon’ble Bombay High Court, Bench at Aurangabad in the case of ***Dnyaneshwar S/o Ramkishna Musane Vs. State of Maharashtra & Others*** to consider

the application of applicant dated 20/02/2008 by including his name in the common seniority list / waiting list subject to fulfilment of eligibility criteria, as per the rules. The respondents should have included the name of applicant in the waiting seniority list, but again rejected the same on the same ground. The issue of substitution of name is already decided by the Hon'ble Bombay High Court, Bench at Aurangabad in the case of ***Dnyaneshwar S/o Ramkishna Musane Vs. State of Maharashtra & Others***. The Hon'ble Bombay High Court, Bench at Aurangabad 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.”*

5. In view of the decision of Hon'ble Bombay High Court, Bench at Aurangabad, the respondents should have entered the name of applicant in the waiting seniority list by substituting his name in place of name of his mother (Shevantabai). 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 name of his mother Shevantabai in the waiting seniority list for appointment on compassionate ground and provide him employment as per eligibility of the applicant and as per the rules.

(iii) No order as to costs.

**Dated** :- 18/07/2023.

**(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 : 18/07/2023.

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