

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 650 OF 2022**

**DISTRICT:- NANDED**

1. Smt. Umabai wd/o Madhav Mane,  
Age 41 years, Occu: Household,  
Mobile No. 7798575129
  
2. Akash S/o Madhav Mane,  
Age 21 years, Occu: Education.  
  
Both R/o Ravankola,  
Tq. Mukhed, Dist. Nanded.

**.. APPLICANTS.**

**V E R S U S**

1. The State of Maharashtra,  
Through its Secretary,  
Public Works Department,  
Mantralaya, Mumbai-32.
  
2. The Executive Engineer,  
P.W.D. Sneh Nagar/  
Vishnu Nagar, Nanded,  
Dist. Nanded-431602.
  
3. The Executive Engineer,  
Special Project, Public Works  
Division, Nanded District Nanded,  
Now Executive Engineer,  
National Highway, Public Works  
Division, Sneh Nagar/Vishnu Nagar,  
Nanded, Dist. Nanded.

**.. RESPONDENTS**

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APPEARANCE : Shri V.G. Pingle, learned counsel for the  
applicants.  
: Smt. Sanjivani Deshmukh-Ghate,  
learned Presenting Officer for the  
respondent authorities.

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**CORAM : JUSTICE SHRI P.R.BORA, VICE CHAIRMAN**

**DATE : 21.02.2023**  
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**ORAL ORDER**

Heard Shri V.G. Pingle, learned counsel for the applicants and Smt. Sanjivani Deshmukh-Ghate, learned Presenting Officer for the respondent authorities.

2. The grievance of the applicants in the present Original Application is that the request for substitution of one legal heir of the deceased Government servant with other for the purpose of appointment on compassionate ground has been rejected by the respondents on the ground that in the Government Resolution dated 21.9.2017 there is no such provision. The Government servant namely Madhav Avinash Mane died in the year 2008 while in service. His widow i.e. applicant No. 1 viz. Umabai Madhav Mane applied for compassionate appointment within the stipulated period. Her name was also included in the waiting list of the candidates eligible for getting appointment on compassionate ground. Applicant No. 2 viz. Akash Madhav Mane, was minor when his father expired. He became major in the year 2019 particularly on 18.6.2019. It is the contention of the applicants that immediately after the applicant No. 2 became major an application was made jointly by applicant Nos. 1 & 2 seeking appointment on compassionate ground for applicant No. 2, however, the respondents did not accept the said application.

Subsequently, also oral request was made and ultimately a written application was submitted on 18.5.2022 seeking substitution of name of applicant No. 2 in place of applicant No. 1 and same came to be rejected on the aforesaid ground. Learned counsel for the applicants relying on the judgment of Hon'ble Division Bench of the Bombay High Court in the case of **Dnyaneshwar S/o Ramkishan Musane Vs. the State of Maharashtra & Ors. (W.P. No. 6267/2018 decided on 11.3.2020)** submitted that the Government Resolution dated 21.9.2017 and particular clause therein, which has been relied upon by the respondents has been struck down by the Hon'ble Division Bench of the Bombay High Court. In the circumstances, according to the learned counsel, the rejection is in contravention of the law laid down by the Hon'ble Bombay High Court in the aforesaid matter. Learned counsel for the applicants, therefore, prayed for allowing the application.

3. Learned Presenting Officer opposed the submissions made on behalf of the applicant and submitted that the applicant has failed in explaining the reason for causing delay of more than 3 years in approaching this Tribunal. Learned P.O. submitted that if it is the contention of the applicants that their application made in the year 2019 was not accepted by the respondent authorities, the applicants were expected to approach this Tribunal within the stipulated period thereafter. It is further contended that since the applicants did not approach within the stipulated period of limitation, on that count and

for one more reason that in fact the employment was not that necessary for the applicants the request of the applicants deserves to be rejected.

4. After having considered the submissions advanced by learned counsel appearing for the applicants and learned Presenting Officer appearing for the respondents, I find no reason for rejecting the present Original Application. In the case of **Dnyaneshwar S/o Ramkishan Musane Vs. the State of Maharashtra & Ors.** (cited supra) the Hon'ble High Court has expressly disapproved the stand taken in the Government Resolution, insofar as the substitution of one legal heir with other legal heir is concerned and directed the State Government to delete the said clause from the aforesaid Government Resolution. Instead of that, I am surprised that the Government has again taken the same stand in the present matter. It is not in dispute that name of applicant No. 1 was included in the waiting list. It is further not in dispute that applicant No. 1 has not been given appointment on compassionate ground. It is also not in dispute that on 18<sup>th</sup> May, 2022 a written request was made for substitution of name of applicant No. 2 in place of applicant No. 1. When the name of applicant No. 1 was existing in the waiting list, there was no reason for the respondents to decline the request of the applicants in view of law laid down by the Hon'ble Bombay High Court in the aforesaid judgment.

5. For the reasons stated above the Original Application deserves to be allowed and is accordingly, allowed. The respondents shall

substitute the name of applicant No. 2 in place of applicant No. 1 and consider the case of applicant No. 2 for his appointment on compassionate ground. The seniority of the present applicant in the waiting list shall be reckoned from the date of his making application i.e. 18.5.2022. There shall be no order as to costs.

**VICE CHAIRMAN**

O.A.NO.398-2021 (SB)-2022-HDD-compassionate appointment