

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,  
MUMBAI**

**ORIGINAL APPLICATION NO.745 OF 2023**

**DISTRICT: NASHIK**  
**Subject: Compassionate Appointment**

Shri Vijay Pradeep Bacchav )  
Age: 21 yrs, Occ: Study, )  
R/o. Raj Laxmi Apartment, Barshi )  
Road, Saptadi Lawns, Satana, Nashik.)

**VERSUS**

The Superintendent Of Police, Nashik )  
Rural, Bhujbal Knowledge City, )  
Adgaon, Nashik. )...**RESPONDENTS**

**Shri K. R. Jagdale, learned Advocate for the Applicant.**

**Smt. Archana B. K., learned Presenting Officer for the Respondents.**

**CORAM : Smt Medha Gadgil, Member (A)**

**Reserved on : 29.02.2024**

**Pronounced on : 05.03.2024**

**J U D G M E N T**

1. Heard Shri K. R. Jagdale, learned Advocate for the Applicant and Smt. Archana B. K., learned Presenting Officer for the Respondents.
2. The Applicant prefers this Original Application seeking direction against the Respondents for substituting his name in place of her mother for appointment on compassionate ground assigning him seniority on group 'C' post'.

3. Briefly stated facts of the O.A. are as under :-

The Applicant's father late Shri Pradeep Bacchav was working as Police Constable on the establishment of Respondent / Superintendent of Police, Nashik (Rural). He died in harness on 21.04.2010 leaving behind widow Ratnabai, son Devendra, daughter Bhagyashree and son Vijay (present Applicant). After the death of Pradeep Bacchav, his widow Ratnabai made an application on 06.07.2010 for providing compassionate appointment to her stating that after the death of husband, there is no earning member in the family. Immediately, in that turn, Respondent by letter dated 17.08.2010 called upon Applicant's mother-Ratnabai to submit the documents with regards to her compassionate Appointment. Thereafter, on 07.10.2013, The Applicant's mother made an application for substitution of her name in the waiting list for compassionate appointment to her son namely Mr. Devendra stating that she is not able to serve with the Government in view of some personal difficulties. Accordingly, she made representation dated 07.10.2013 in prescribed format with Affidavit. Unfortunately, Mr. Devendra elder son of Smt. Ratnabai was passed away on 13.10.2014.

4. Meanwhile, on 19.06.2019, the younger son of Ratnabai i.e present Applicant -Vijay had crossed 18 years of age. Therefore, on 03.03.2021, Smt. Ratnabai again made an application for substitution of her name for appointment to present Applicant. On 06.02.2023, it was communicated by Respondent to mother of the Applicant that her name is at Sr. No.3 of the waiting list for compassionate appointment. Further, Smt. Ratnabai was called with necessary documents for verification. Thereafter, again on 07.02.2023, the Applicant's mother submitted representation for inclusion in the waiting list for appointment on compassionate ground of her son Shri Vijay-present applicant. However, till date there is no commutation by Respondent in this regard to Applicant. The date of birth of Applicant's mother is 05.03.1979 and she will be completing 45 years of age on 05.03.2024. The Applicant has, therefore, filed this

Original Application seeking directions to Respondent to consider the claim of the Applicant.

5. Learned Advocate for Applicant prays that in view of the fact that family is facing gross financial hardship and her son was minor at the relevant time she prayed for substitution of Applicant in her place as she will be soon reached the age of 45 years.

6. Learned Advocate for Applicant relied on the judgment of the Hon'ble Bombay High Court Bench at Aurangabad in ***W.P. No.6267/2018 decided on 11.03.2020 (Dnyaneshwar Ramkishan Musane Vs. State of Maharashtra)***.

7. This is a case of compassionate appointment and the very objective of the scheme is to alleviate the financial difficulties of the distressed family due to the loss of sole earning member of the family.

8. Larned P.O. opposes the submission made by learned Advocate for the Applicant. She states that according to Maharashtra State Government G.R. dated 21.09.2017, if person is completing the age of 45 years his/her name should be removed from the waiting list of compassionate appointment. She pointed out that the Respondents did not have malafide intension and had already put name of the Applicant's mother in waiting list.

9. I have considered submissions of both sides. The Hon'ble High Bombay High Court, Bench at Aurangabad in ***Dnyaneshwar R. Musane's*** case (cited supra) considered G.R. dated 20.05.2015 which inter-alia states that where name of one legal representative of deceased employee is in waiting list, then another heir cannot request for substitution of name in the waiting list. Hon'ble High Court held that the said condition in G.R. dated 20.05.2015 is total unjustified and directions were issued to decide the same. The Hon'ble High Court held as under :-

*“In this view of the matter, we find that the restriction imposed by the Government Resolution dated 20.05.2015 that name of legal representative of deceased employee cannot be considered in place of another legal representative of that deceased employee whose name happens to be in the waiting list for giving appointment on compassionate grounds, is unjustified. Hence, we pass the following order :-*

*“(I) We hold that the restriction imposed by the Government Resolution dated 20.05.2015 that if name of 928-WP-6267-2018.odt 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.”*

*(IV) The Respondent No.2 – Chief Executive Officer is directed to consider the claim of the petition for appointment on compassionate ground on the post commensurate with his qualification and treating his seniority as per the seniority of his mother.”*

10. In view of the judgment of the Hon’ble Bombay High Court in ***Dnyaneshwar R. Musane’s*** case (cited supra), the substitution is permissible. The restriction imposed by G.R. dated 21.09.2017 is not the obstacle for substitution of name of Applicant. Hence the following order :-

### **ORDER**

- (A) The Original Application is allowed.
- (B) In view of the fact that the mother of the Applicant attains the age of 45 on 05.03.2024, the Respondent is directed to substitute the name of Applicant instead of his mother in the waiting list for appointment on compassionate ground and provide appointment on compassionate ground as per the Rules.
- (C) No order as to costs.

Sd/-

**(Medha Gadgil)**  
**Member (A)**

