

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI**

**ORIGINAL APPLICATION NO.756 OF 2017  
(Subject : Compassionate Appointment)**

Ms. Dipti Anil Kachor, )  
R/at. C/o. Nivrutti Bhavrao Vyawahare )  
Shri Shaneshvar Trading Co. Chandwad, )  
Somwar Peth, Building Santani Sankul, )  
Near Venkatesh Bank, Lane No.1112, )  
Chandwad, District Nashik 423 101. ) **....Applicant.**

**Versus**

1. The State of Maharashtra, )  
Through the Secretary, )  
Home Department, )  
Mantralaya, Mumbai. )
2. The Director General of Police, )  
Shahid Bhagat Singh Marg, Colaba NO.1. )  
Mumbai 32. )
3. The Superintendent of Police, )  
Nashik Rural, Near Bhujbal Knowledge City, )  
Adgaon, Nashik ) **.....Respondents.**

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

Ms. S. Suryawanshi, the learned Presenting Officer for the Respondents.

CORAM : Justice Shri M.T. Joshi, Vice-Chairman

DATE : 01.10.2018.

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

1. Heard Shri K.R. Jagdale, the learned Advocate for the Applicant and Ms. S. Suryawanshi, the learned Presenting Officer for the Respondents.
2. Heard both sides. By the present Original Application Applicant is claiming following relief :-
  - (a) By a suitable order/ directions, this Honorable Tribunal may be pleased to quash and set aside the impugned communication of March 2017 passed by Respondent No.3, forthwith.

(b) By a suitable order/ directions, this Honorable Tribunal may be pleased to direct the Respondents to assign the seniority of the Applicant's mother (Smt. Lata Anil Kachor) to the Applicant for compassionate appointment in the cadre of Group C or on the post of Police Constable, with all other consequential service benefits, forthwith.

(c) By a suitable order / directions, this Honorable Tribunal may be direct the Respondents to consider the claim of the Applicant for compassionate appointment in the cadre of Group C or on the post of Police Constable, forthwith, with all other consequential service benefits.

3. The facts on record shows that upon death of the father of the present applicant her mother had applied for grant of compassionate appointment.

4. Thereafter the applicant's mother applied for substitution of her name by the present Applicant. At that time, however, applicant was minor. Eventually on 19.04.2014 she became major as well as passed her 12<sup>th</sup> standard examination. Respondents however in view of the Government Resolution vide impugned communication dated March 2017, Exhibit-R, page 42 communicated to the applicant that no substitution is allowed as per G.R. and therefore application cannot be granted.

5. Learned P.O. submits that even otherwise present application is beyond limitation as earlier also the same request from the side of the applicant's mother was refused by the Respondents. Though there is no provision in any Government Resolution that the substitution is allowed, however series of judgments by this Tribunal and the Hon'ble High Court, copies of which at Exhibit-D, page 47 are on record, wherein it is held that substitution is allowed.

6. Recent judgment has been placed on record by learned Advocate for the Applicant vide Writ Petition No.13932 of 2017, State of Maharashtra & Ors. Versus Smt. Anusaya V. More and Anr. decided on 18.07.2018, (marked as X for the purpose of identification) would show that substitution is allowed. However, the said substitution shall be from the date of eligibility of the next applicant or from the date of application for substitution whichever is later.

7. Learned P.O. for the Respondents submits that Application is beyond limitation. However earlier communication between applicant's mother and Respondents would show that since applicant was yet to become major or gaining educational qualification the substitution was under consideration. Only the last communication dated 23.01.2017 (copy whereof is at Exhibit-O, page 38) would show that the Respondents refused substitution on the ground that there is no provision. In that view of the matter from the date of last communication present O.A. filed on 08.08.2017 would be within the limitation.

8. Hence, the following order :-

Original Application is allowed. Concerned Respondents are directed to allow substitution of the name by the present application in place of name of her mother from the date of filing of the application or from the date of gaining required educational qualification whichever is later.

9. With this Original Application is disposed of without any order as to costs.

Sd/-

**(M.T. Joshi, J.)**  
**Vice-Chairman**

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