

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 943/2020(S.B.)

1. Smt. Komal Vivek Gedam,
Aged 46 years, Occupation Nil,
2. Ku. Bhavikta D/o Vivek Gedam,
Aged 21 years, Occupation Student
3. Vaibhav Vivek Gedam,
Aged 17 years, Occupation Student,
All R/o. 192, Anand Nagar in front of
Indian Post Office, Nagpur -12.

Applicants.

Versus

1. The State of Maharashtra,
through its Secretary,
Revenue & Forest Department,
Mantralaya, Mumbai -32.
2. Commissioner, Nagpur Division,
Nagpur.

Respondents

Shri S.S.Deshpande, Ld. counsel for the applicants.
Shri H.K.Pande, Ld. P.O. for the respondents.

Coram:-Hon'ble Shri Justice M.G.Giratkar, Vice Chairman.
Dated: - 22nd December 2022.

JUDGMENT

Heard Shri S.S.Deshpande, learned counsel for the applicants and Shri H.K.Pande, learned P.O. for the Respondents.

2. Case of the applicants in short is as under.

Applicant no.1 is the mother of applicant no.2 and 3. She is wife of deceased Vivek Gedam who was working with the office of respondent no.2 as a Class III employee. Vivek Gedam died on 13.12.2014 while he was in service. On 23.01.2015, the applicant no.1 applied for appointment on compassionate ground. That time applicant no.2 and 3 were minor. Now the applicant no.2 and 3 have attained the age of majority. The respondent no.2 sent letter to the Collector to consider the applicant no.3 for appointment on compassionate ground. On 05.03.2018 the applicant no.1 received letter from Resident Deputy Collector, Nagpur directing the applicant no.1 to remain present before the authority for verification of documents. On 05.07.2019 the applicant no.1 submitted letter to the respondent no.2 stating that she has crossed the age of 45 years and therefore, the name of applicant no.3 be substituted in place of the name of applicant no.1 for appointment on compassionate ground. Her application is rejected on the ground that the name of applicant no.3 cannot be substituted in view of G.R. of 21.09.2017. Hence, the applicants approached to this Tribunal.

3. The O.A. is strongly objected by the respondent no.2. It is submitted that in view of the specific guidelines given in the G.R. dated 21.09.2017, the name of applicant no.3 cannot be substituted. Hence, the O.A. is liable to be rejected.

4. Heard the learned counsel for the applicants. Now the issue of substitution of the name in place of the other dependent, who is in the seniority list, is decided by the Hon'ble High Court, Bench at Aurangabad in the case of **Dnyaneshwar Ramkishan Musane Vs. The State of Maharashtra and Others.** The Hon'ble 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. The G.R. of 2017 is the accumulation of all earlier G.Rs. The G.R. dated 20.05.2015 was the obstacle for substitution of the name in place of other dependent who are already in the seniority list. In the case of **Dnyaneshwar Ramkishan Musane Vs. State of Maharashtra and Others**, the Hon'ble Bombay High Court, Bench at Aurangabad has directed the Government of Maharashtra to delete the unreasonable restrictions imposed by the G.R. of 20.05.2015. In view of the Judgment of Hon'ble Bombay High Court, Bench at Aurangabad in the case of **Dnyaneshwar Ramkishan Musane** the substitution is permitted. Hence, the following order.

ORDER

1. The O.A. is allowed.

2. The respondents are directed to substitute the name of applicant no.3 namely Vaibhav Vivek Gedam in place of the name of his mother Smt.Komal Vivek Gedam in the same waiting seniority list for appointment on compassionate ground and provide him employment, as per rules.

3. No order as to costs.

(Justice M.G.Giratkar)
Vice Chairman

Dated – 22/12/2022

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : Raksha Shashikant Mankawde
Court Name : Court of Hon'ble Vice Chairman.
Judgment signed on : 22/12/2022.