

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 591/2020 (S.B.)

1. Dhananjay Ashok Khandare,
Aged about 22 years,
Occupation : Nil, R/o Meghadut Apartment,
Mangalmurti Nagar, Yavatmal,
Tah. & Dist. Yavatmal.

2. Smt. Sunita Ashok Khandare,
Aged about 44 years, Occupation : Nil,
R/o Meghadut Apartment, Mangalmurti Nagar,
Yavatmal, Tah. & Dist. Yavatmal.

Applicants.

Versus

- 1) The State of Maharashtra,
Through it's Secretary,
Ministry of Home Department,
Mantralaya, Mumbai-32.

- 2) The Superintendent of Police,
Amravati (Rural), Camp Amravati,
Tah. & Dist. Amravati.

Respondents

Shri S.N.Gaikwad, Id. Advocate for the applicant.

Shri H.K.Pande, Id. P.O. for the Respondents.

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

Dated :- 28.08.2023.

JUDGEMENT

Heard Shri S.N.Gaikwad, Id. counsel for the applicants and
Shri H.K.Pande, Id. P.O. for the Respondents.

2. The case of the applicant in short is as under:-

The father of the applicant no. 1 namely Ashok Bhimrao Khandare died on 12.05.2009 while he was in service as a Police Constable. Wife of deceased i.e. applicant no. 2 applied for appointment on compassionate ground. Her name was entered in the waiting seniority list but not given any appointment. On 26.02.2020 the applicant no. 2 applied to give appointment to applicant no. 1 on compassionate ground. The said application came to be rejected as per order dated 21.05.2020.

3. The respondent no. 2 has rejected the application on the ground that as per G.R. dated 20.05.2015 substitution is not allowed.

4. The Hon'ble Bombay High Court, Bench at Aurangabad in the case of **Dnyaneshwar Ramkishan Musane Vs. The State of Maharashtra & 2 Ors. decided on 11.03.2020** has passed the following order:-

1) 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.

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 Hon'ble High Court had given specific direction to the State of Maharashtra to delete the unreasonable restriction imposed by G.R. dated 20.05.2015 but till date the unreasonable restriction in respect of substitution is not deleted.

6. In view of Judgment passed by the Hon'ble Bombay High Court, Bench at Aurangabad following order:-

- A. O.A. is allowed.
- B. The respondents are directed to substitute the name of applicant no. 1 in place of applicant no. 2 on waiting seniority list for appointment on compassionate ground and provide the employment as per Rule.
- C. With the above directions, O.A. is disposed of with no order as to costs.

(Shri Justice M.G.Giratkar)
Vice Chairman

Dated :- 28/08/2023.
aps

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

Name of Steno : Akhilesh Parasnath Srivastava.

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 28/08/2023.
and pronounced on

Uploaded on : 29/08/2023.