

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 1015/2019(S.B.)

- 1) Geeta Wd/o Jitendra Mungmode
Aged about 49 years,
Occupation – Nil.

- 2) Umesh s/o Jitendra Mungmode
Aged about 28 years,
Occupation –Student,
Both applicants R/o. Rukmini Nagar,
Khat Road, Bhandara.

Applicants.

Versus

- 1) State of Maharashtra
through the Secretary,
For Department of Irrigation
and Public Works,
Mantralaya, Mumbai.

- 2) Superintendent Engineer
Irrigation Project Resources Division,
Sinchan Seva Bhavan,
Civil Lines Nagpur.

- 3) Executive Engineer,
Irrigation and Hydro Electric Project,
Water Resources Division,
3rd Floor, Civil Lines, Nagpur.

Respondents

Shri S.A.Marathe, Ld. counsel for the applicants.
Shri A.M.Khadatkar, Ld. P.O. for the respondent no.1.
Shri T.M.Zaheer, Ld. counsel for the respondents 2 and 3.

Coram:-Hon'ble Shri M.A.Lovekar, Member (J).

Dated: - 24th January 2023.

JUDGMENT

Judgment is reserved on 18th January, 2023.

Judgment is pronounced on 24th January, 2023.

Heard Shri S.A.Marathe, learned counsel for the applicants, Shri A.M.Khadatkar, learned P.O. for the respondent no.1 and Shri T.M.Zaheer, learned counsel for the respondents 2 and 3.

2. Case of the applicants is as follows.

Jitendra Mungmode who was working as Junior Engineer in the respondent department died in harness on 13.09.2007. Applicant no.1 is wife of the deceased. Applicant no.2 is son of the deceased and applicant no.1. By application dated 11.01.2008 (Annexure A-1) applicant no.1 applied for appointment on compassionate ground. Applicant no.1 was not keeping well. Therefore, applicant no.2 submitted an application dated 07.08.2014 (Annexure A-4) that instead of his mother, applicant no.1, he, applicant no.2, be considered for giving an appointment on compassionate ground. To this application applicant no.2 attached consent / no objection by applicant no.1 and his brother. By communication dated 04.07.2017 (Annexure A-7) it was intimated that substitution as sought by the applicants could not be allowed for want of enabling provision in G.R. dated 20.05.2015 (Annexure A-8) or

G.R. dated 17.11.2016 (Annexure A-9). Hence, this O.A. seeking directions to the respondents to allow the substitution as above.

3. In their reply respondents 2 and 3 have averred that substitution as sought by the applicants could not be allowed for want of enabling provision and hence no interference by this Tribunal would be warranted.

4. G.R. dated 20.05.2015 *inter alia* states-

कर्मचा-याच्या मृत्यूनंतर त्याच्या पात्र कुटुंबीयांचे नांव अनुकंपाधारकांच्या प्रतीक्षासूचीमध्ये घेतल्यानंतर त्याच्याऐवजी अन्य पात्र वारसदाराचे नांव प्रतीक्षासूचीमध्ये घेतले जात नाही. म्हणजेच प्रतीक्षासूचीमधील नांव बदलण्याची तरतूद सध्याच्या धोरणात नाही.

5. The issue of substitution is decided by the Hon'ble Bombay High Court in Judgment dated 12.12.2022 in Writ Petition No.1903/2022 by holding thus-

We find that the reliance placed by respondent no.4 on the Government Resolution dated 20.05.2015 to reject the request of the petitioner is against the law laid down by the coordinate bench of this Court in the case of Dnyaneshwar Ramkishan Musane Vs. State of Maharashtra and Ors. wherein Government Resolution dated 20.05.2015 to the extent of prohibiting the substitution of name, has been quashed. The petitioners have also relied upon judgment in the case of Jayesh s/o Jivan Dange Vs. The State of Maharashtra, through its

Secretary Rural Development Department, Mantarlaya, Mumbai
and Ors. wherein the coordinate bench of this Court, of which one of us (A.S.Chadurkar, J.) was a member, by referring to the judgment of Dhyaneshwar's case *supra* observed that the substitution of name of the petitioner therein could not have been rejected by placing reliance upon Government Resolution dated 20.05.2015.

Hence, the order.

ORDER

The O.A. is allowed in the following terms-

The respondents are directed to substitute the name of applicant no.2 in place of his mother, applicant no.1, in the wait list prepared for granting appointment on compassionate ground – on applicant no.2 furnishing consent / no objection of his brother and mother i.e. applicant no.1. On fulfilment of this condition claim of applicant no.2 shall be considered in accordance with law. No order as to costs.

(M.A.Lovekar)
Member (J)

Dated – 24/01/2023

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 Member (J) .
Judgment signed on : 24/01/2023.
and pronounced on