

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 224/2022(S.B.)

Pradip S/o Kailasrao Dhone,
Aged about 27 years, Occu.: Nil,
R/o Taroda, Post Waodi,
Tq Kalmnuri, Hingoli - 431702.

Applicant.

Versus

1. The State of Maharashtra,
Through Chief Secretary,
Home Department,
Mantralaya, Mumbai-32.
2. The Commissioner of Police,
Nagpur City, Nagpur.

Respondents

Shri R.S.Suryawanshi, Ld. counsel for the applicant.
Shri S.A.Sainis, Ld. P.O. for the respondents.

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

Dated: - 19th April, 2023.

JUDGMENT

Heard Shri R.S.Suryawanshi, learned counsel for the applicant
and Shri S.A.Sainis, learned P.O. for the Respondents.

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

The applicant is son of late Kailasrao Dhone who was working as Class -IV employee. Kailasrao Dhone died on 06.10.2005 while he was in service. The applicant was minor at that time, therefore, his mother applied for appointment on compassionate ground. Her name was entered in the waiting seniority list at Sr.No.38 for appointment on compassionate ground. The respondents have not provided any employment to the mother of applicant. The mother of applicant as per application dated 06.01.2014 has requested to the respondents that service on compassionate ground be provided to her son i.e. the applicant Pradip Kailasrao Dhone. The respondents informed on 08.06.2021 to the applicant stating that as per the G.Rs. related to the compassionate appointment, substitution is not permissible.

3. The applicant has approached to this Tribunal for direction to the respondents to provide him employment on compassionate ground.

4. Heard Shri S.A.Sainis, learned P.O. for the Respondents. The O.A. is strongly opposed by the respondents. It is submitted that as per the G.R. of 2017, substitution of name of any other dependents is not permissible. Therefore, the name of the applicant cannot be entered in the waiting seniority list for appointment on compassionate ground. Hence, the O.A. is liable to be dismissed.

5. During the course of argument the learned counsel for the applicant has pointed out the Judgment of the Hon'ble Bombay High Court, Bench at Aurangabad in the case of **Dnyaneshwar S/o Ramkishan Musane Vs. State of Maharashtra & Others** and submitted that substitution is permissible. The Hon'ble Bombay 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.

6. In view of the Judgment of Hon'ble Bombay High Court in the case of *Dnyaneshwar S/o Ramkishan Musane Vs. State of Maharashtra & Others* applicant is entitled for substitution. Hence, the following order.

ORDER

- 1) The O.A. is allowed.
- 2) The respondents are directed to enter the name of the applicant in the waiting seniority list for appointment on compassionate ground and provide the employment, as per Rules.
- 3) No order as to costs.

(Justice M.G.Giratkar)
Vice Chairman

Dated – 19/04/2023.

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 Vice Chairman .
Judgment signed on : 19/04/2023.