

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 271 of 2023 (S.B.)

- 1) Sangita W/o. Vinod Wabhitkar,
Age 48 yrs. Occu. Nil
R/o. Ashi, Tal- Chamorshi, Dist- Gadchiroli.
- 2) Akshay S/o. Vinod Wabhitkar,
Age 23 yrs. Occu. Nil
R/o. Ashi, Tal- Chamorshi, Dist- Gadchiroli.

Applicants.

Versus

- 1) The State of Maharashtra,
through its Secretary Home Department,
Mantralaya, Mumbai-32.
- 2) The State of Maharashtra,
through its Director General of police Department,
Mumbai-32,
- 3) The Superintendent of Police,
Police Superintendent Office, Gadchiroli.

Respondents.

**S/Shri P.S. Kshirsagar, G.O. Gadge, Advocates for the applicants.
Shri S.A.Sainis, learned P.O. for respondents.**

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

Dated :- 19/10/2023.

J U D G M E N T

Heard Shri G.O. Gadge, learned counsel for the applicants
and Shri S.A. Sainis, learned P.O. for the respondents.

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

The father of applicant no.2 was working as a Police Naik
at Police Station, Armori, District Gadchiroli. On 12/02/2009, the father

of applicant no.2 died due to illness. The mother, i.e., applicant no.1 applied for appointment on compassionate ground on 11/05/2010. Her name was entered in the waiting seniority list. Her name was removed from the waiting seniority list on the ground that she has completed 45 years of age, as per the order dated 19/10/2020. As per the letter dated 16/03/2019 addressed to the applicant no.2 it was informed that his application dated 04/12/2013 the Government has not taken any decision to substitute his name.

3. It appears before the order dated 19/10/2020, the applicant no.1 had applied on 04/12/2013 for substitution of name of her son, i.e., applicant no.2. Till date the respondents have not informed her as to whether the name of her son, i.e., applicant no.2 is entered in the waiting seniority list or not. The respondents have only informed that the matter is pending before the Government. In one of the communication, it was informed to the applicants that as per the G.R. dated 20/05/2015, the substitution is not provided. Therefore, the applicants approached to this Tribunal for substitution of name of applicant no.2.

4. The Hon'ble Bombay High Court, Bench at Aurangabad in Writ Petition No.6267/2018 in the case of **Dnyaneshwar S/o Ramkishna Musane Vs. State of Maharashtra & Others** 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. In view of the Judgment of the Hon'ble Bombay High Court, Bench at Aurangabad in Writ Petition No.6267/2018 in the case of **Dnyaneshwar S/o Ramkishna Musane Vs. State of Maharashtra & Others**, the substitution is provided. The unreasonable restrictions imposed by the G.R. dated 20/05/2015 was directed to be deleted.

The State Government has not deleted the unreasonable restrictions imposed by the G.R. dated 20/05/2015. Hence, the following order –

ORDER

(i) The O.A. is allowed.

(ii) The respondents are directed to enter the name of applicant no.2 i.e. Akshay S/o Vinod Wabhitkar in the waiting seniority list for appointment on compassionate ground and provide him employment, as per rules.

(iii) No order as to costs.

Dated :- 19/10/2023.

(Justice M.G. Giratkar)
Vice Chairman.

dnk.

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

Name of P.A. : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 19/10/2023.