

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 390/2022(S.B.)

1. Likesh Bhagwat Bandre,
s/o Manda Bhagwat Bandre,
Aged about 22 years, Occ: Student,
R/o Revatkar Layout,
Khutamba Road, Katol, Nagpur.

Applicant.

Versus

1. The State of Maharashtra,
Through its Secretary,
Ministry of Home Affairs,
Mantralaya, Mumbai-32.
2. The District Collector, Nagpur,
Tah. & Dist. Nagpur.
3. Commandant Office, SRPF,
Division-4, Dist. Nagpur.

Respondents

Smt. N.S.Pathan, Ld. counsel for the applicant.
Shri A.M.Ghogre, Ld. P.O. for the respondents.

Coram:-Hon'ble Shri Justice M.G.Giratkar, Vice Chairman.
Dated: - 30th November 2022.

JUDGMENT

Heard Smt. N.S.Pathan, learned counsel for the applicant and
Shri A.M.Ghogre, learned P.O. for the Respondents.

2. The applicant has filed the present O.A. for direction to the respondents to enter his name in the waiting seniority list for appointment on compassionate ground in place of the name of his mother. The case of the applicant in short is as under-
3. The father of the applicant namely Bhagwat Balkrishna Bandre was working as a Police Constable. His father died on 23.01.2008 while he was on service. The mother of applicant namely Smt.Manda Bhagwat Bandre applied for appointment on compassionate ground on 15.02.2008. In the year 2013 the mother of applicant prayed to provide service to the applicant. The respondent instead of providing any service to the applicant, informed vide communication dated 15.03.2022 that mother of applicant has completed 45 years and therefore her name is deleted from the waiting list. It was also informed that there is no provisions of substitution and therefore the name of applicant was not substituted. Therefore, the applicant has challenged the communication dated 15.03.2022 in this O.A..
4. The O.A. is strongly opposed by the respondents. It is submitted that the name of mother of applicant was deleted because she has completed 45 years of her age. Therefore, she is not eligible for appointment on compassionate ground. The name of applicant

was not substituted because there is no provision of substitution in view of G.R. of 2015.

5. Heard Advocate Miss. Naziya Pathan, for the applicant. She has pointed out the judgment of Hon'ble Bombay High Court, Bench at Aurangabad in the case of ***Dnayneshwar s/o Ramkishan Musane Vs. State of Maharashtra and Others.*** The learned Advocate Miss. Naziya Pathan, submits that in view of the judgment of Hon'ble Bombay High Court, the applicant is entitled for relief. Hon'ble Bombay High Court has held as under-

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. Heard the learned P.O. Shri H.K.Pande. He has strongly opposed the O.A. The learned P.O. has submitted that the name of mother of the applicant was already recorded in the waiting seniority list for appointment on compassionate ground. The substitution of name is not permissible as per G.R. dated 20.05.2015. Hence, the O.A. is liable to be dismissed.
7. There is no dispute that father of the applicant was working as a Police Constable. There is no dispute that respondents have not provided any service to the mother of applicant. Her name was deleted from the waiting list on the ground that she has completed 45 years. The name of applicant is not entered in the waiting list on the ground that it is not permissible. As per the judgment of

Hon'ble Bombay High Court, in the case of *Dnayneshwar s/o Ramkishan Musane* the applicant is entitled to get his name substituted in place of the name of his mother. The applicant's mother has already applied in the year 2013 for providing service to the applicant but this fact is not considered by the respondents. Hence, the following order.

ORDER

1. The O.A. is allowed.
2. The impugned communication dated 15.03.2022 is hereby quashed and set aside.
3. The respondents are directed to substitute the name of the applicant in place of the name of his mother in the same serial number of waiting list for appointment on compassionate ground.
4. The respondents are directed to provide the employment as per the guidelines / Rules.
5. No order as to costs.

(Justice M.G.Giratkar)
Vice Chairman

Dated – 30/11/2022.

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 : 30/11/2022.
Uploaded on : 09/12/2022.