

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 410/2022(S.B.)

1. Saroj D/o. Vinod Deshmukh,
Age 22 yrs. Occu. Nil
R/o. Rupchand Nagar,
Lahriya Plot Washim Road, Akola.

Applicant.

Versus

1. The State of Maharashtra,
Through its Secretary,
Home Department,
Mantralaya, Mumbai -32.
2. The State of Maharashtra,
through its Secretary of General Administration
Department, Mantralaya, Mumbai-32.
3. The Superintendent of Police,
Police Superintendent Office, Akola.

Respondents

Shri P.S.Kshirsagar, Ld. counsel for the applicant.
Shri V.A.Kulkarni, Ld. P.O. for the respondents.

Coram:-Hon'ble Shri Justice M.G.Giratkar, Vice Chairman.
Dated: - 11th November 2022.

JUDGMENT

Heard Shri P.S.Kshirsagar, learned counsel for the applicant and Shri V.A.Kulkarni, learned P.O. for the Respondents.

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

The father of the applicant was working as Police Constable at Police Station Dahihanda, District Akola. Father of the applicant namely Vinod Deshmukh died on 24.02.2010 while he was on duty. The applicant is the daughter of deceased employee. She was minor at the time of death of her father therefore she could not apply for compassionate appointment. Her mother applied for compassionate appointment. Her name was taken in the seniority list of compassionate appointment. Now the mother of the applicant is aged about 42 years. Till date she is not appointed on compassionate ground. The applicant is now major aged about 22 years. She has passed 12th Std. examination therefore, she applied for compassionate appointment. Her mother had given no objection. The respondent has not considered her application for substitution of her name in place of the name of her mother in view of the G.R. of 20.05.2015. Therefore, prayed to direct the respondents to appoint her on compassionate ground.

3. The O.A. is opposed by the respondents on the ground that in view of the guidelines given in G.R. of 2015, the substitution is not permitted unless he or she expires.
4. Heard Advocate Shri P.S.Kshirsagar for the applicant. He has relied on the judgment of Hon'ble Bombay High Court, Bench at Aurangabad in W.P.No.6267/2018. The learned counsel for the applicant has submitted that the unreasonable restriction in G.R. of 2015 is directed to be deleted by the Hon'ble Bombay High Court.
5. Heard learned P.O., Shri V.A.Kulkarni, for the respondents. As per his submission specific guidelines are given in the G.R. and therefore the substitution of the name of applicant is not permissible. Hence, O.A. is liable to be dismissed.
6. There were various G.Rs. issued by the Government of Maharashtra for appointment on compassionate ground. All the G.Rs. are now combined / complied in the G.R. of 2017 and guidelines are given to the respective authorities how to deal the applications for appointment on compassionate ground. In the G.R. of 2015 the guidelines are given stating that the substitution is not permissible unless the employee, who is on the seniority list for compassionate appointment, dies.

7. This issue is decided by the Hon'ble Bombay High Court, Bench at Aurangabad in the case of ***Dnyaneshwar Ramkrishan Musane Vs. The State of Maharashtra, Hon'ble Bombay High Court, Bench at Aurangabad.*** Operative part of order is as under “we hold that 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 the name of another legal representative of that deceased employee unjustified and it is directed that it be deleted.”
8. Even specific direction is given by the Hon'ble Bombay High Court, Bench at Aurangabad, then also Government of Maharashtra has not deleted the unreasonable restriction imposed in the G.R. dated 20.05.2015.
9. In view of the judgment of Bombay High Court in the case of ***Dnyaneshwar Ramkrishan Musane*** the applicant is entitled to get her name by substituting in place of name of her mother in the Seniority Waiting List on compassionate ground. Hence, the following order.

ORDER

1. O.A. is allowed.
2. The respondent no.3 Superintendent of Police, Akola is directed to substitute the name of the applicant in place of the name of her mother in the Waiting Seniority list on Compassionate Ground.
3. No order as to costs.

(Justice M.G.Giratkar)
Vice Chairman

Dated – 11/11/2022

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 : 11/11/2022.
Uploaded on : 16/11/2022.