

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI**

**ORIGINAL APPLICATION NO.229 OF 2023**

**DISTRICT : NASHIK**

Snehal Sharad Chaudhari, )  
Age 25 years, occ. Nil, R/o Phule Chowk, )  
Near Kangane Building, Manmad, Taluka Nandgaon, )  
District Nashik )..Applicant

Versus

1. The State of Maharashtra, )  
Through its Secretary, Home Department, )  
Mantralaya, Mumbai 400032 )

2. The Superintendent of Police, )  
C/o Near Bhujbal Knowledge City, )  
Adgao, Nashik 422003 )..Respondents

Shri O.A. Wable – Advocate for the Applicant

Shri A.J. Chougule – Presenting Officer for the Respondents

CORAM : Smt. Medha Gadgil, Member (A)

RESERVED ON : 8<sup>th</sup> September, 2023

PRONOUNCED ON: 15<sup>th</sup> September, 2023

**J U D G M E N T**

1. Heard Shri O.A. Wable, learned Advocate for the Applicant and Shri A.J. Chougule, learned Presenting Officer for the Respondents.

2. The applicant prefers this original application seeking directions against the respondents for substituting her name in place of her mother for appointment on compassionate ground on any suitable post in place of her deceased father namely Sharad Chaudhari.

3. Brief facts of the case are as follows.

4. The applicant's father late Shri Sharad Chaudhari was appointed on 22.8.1989 as a Police Constable in the Police Headquarter, Nashik. The applicant's father passed away in harness on 28.6.2007 while on duty. The applicant, her mother (Jayshree Sharad Chaudhary) and sister are the only legal heirs of the deceased Sharad Chaudhary.

5. Ld. Advocate for the applicant submits that deceased father was the only earning member in the family and due to his sudden death the entire family is facing financial hardship as the family has no other source of income for their livelihood. After the death of her father the mother of the applicant viz. Jayshree Sharad Chaudhari made an application for appointment on compassionate ground in place of her deceased husband Shri Sharad Chaudhari on 17.9.2007. As the mother of the applicant did not have the minimum qualification i.e. passing of 12<sup>th</sup> standard, she was held not eligible for such appointment and was informed about the same by respondent no.2 on 25.2.2010 and 8.11.2011. Ld. Advocate for the applicant submits that applicant completed her 12<sup>th</sup> standard in 2012 and fulfilled all the criteria for appointment. Further on 31.12.2019 respondent no.2 informed to the mother of the applicant that her name has been removed from the waiting list as she has completed 45 years of age on 26.10.2018. The request of the applicant to substitute her name in place of her mother was rejected by letter dated 28.4.2021. The applicant made representation dated 12.12.2022 to the respondent no.2 for

substituting her name which was rejected by letter dated 15.12.2022. Ld. Advocate submits that the respondents have relied on clause 21 of GR dated 21.9.2017 which restrains them from substituting the name of the legal heirs of the deceased for compassionate appointment.

6. Ld. Advocate for the applicant relies on the judgment of the Hon'ble Bombay High Court, Bench at Aurangabad in **Dnyaneshwar Ramkishan Musane Vs. State of Maharashtra, W.P. No.6267 of 2018 decided on 11.3.2020** and the judgment of this Tribunal in **OA No.410 of 2022, Saroj Vinod Deshmukh Vs. The State of Maharashtra.**

7. This is a case of compassionate appointment and the very objective of the scheme is to alleviate the financial difficulties of the distressed family due to the loss of sole earning member of the family.

8. In **Dnyaneshwar R. Musane Vs. State of Maharashtra, W.P. No.6267 of 2018 decided on 11.3.2020** the Hon'ble Bombay High Court, Bench at Aurangabad considered G.R. dated 20.05.2015 which inter-alia states that where name of one legal representative of deceased employee is in waiting list, then another heir cannot request for substitution of name in the waiting list. Hon'ble High Court held that the said condition in G.R. dated 20.05.2015 is totally unjustified and directions were issued to delete the same. Hon'ble High Court held as under:-

*“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.”*

9. At this juncture, it would be also apposite to refer the decision of Hon'ble Supreme Court in **2018 (4) SLR 771 (Supriya S. Patil Vs. State of Maharashtra)** which is squarely applicable to the present situation. In that case also, the name of widow was empanelled under the compassionate appointment scheme but later it was declined on account of crossing the age. Thereafter, her daughter made an application for substitution of her name in place of widow. The claim was opposed on the ground that the family had already managed to survive for 10 years, and therefore, there was no immediate necessity. The Hon'ble Supreme Court held that only because family had managed to survive 14 years, it cannot be the reason for rejection and whether the family pulled on begging or borrowing should not have been the consideration. In Para No.3, the Hon'ble Supreme Court held as under:-

*“3. We find from the Judgment of the High Court that the main reason for rejecting the case of the appellant was that the family had managed to survive for over ten years and, therefore, there was no immediate necessity. We are afraid that this cannot be a major reason for rejection. Whether the family pulled on begging or borrowing also should have been one consideration. We do not propose to deal with the matter any further in the peculiar facts of this case. The widow had already been empaneled for appointment under the Compassionate Appointment Scheme, but was declined the benefit only on account of crossing the age. We are of the view that in the peculiar facts of this case, her daughter should be considered for compassionate appointment. Ordered accordingly.”*

10. Thus, it is seen that after the death of Sharad Chaudhari his wife was not given appointment as she did not possess the requisite qualification i.e. HSC. However, applicant has necessary qualification and

there should be no bar in giving her suitable employment by substituting her name.

11. In view of the judgment of the Hon'ble Bombay High Court in *Dnyaneshwar R. Musane* (supra), the substitution is permissible. The unreasonable restrictions imposed by the GR dated 21.9.2017 is not the obstacle for substitution of name of applicant. Hence, the following order:

**ORDER**

A) The Original Application is allowed and the impugned letters dated 28.4.2021 and 15.12.2022 are quashed and set aside.

B) The Respondent No.2 is directed to substitute the name of applicant in place of her mother in the same seniority waiting list for appointment on compassionate ground and provide the appointment on compassionate ground, as per the Rules.

C) No order as to costs.

**Sd/-**  
**(Medha Gadgil)**  
**Member (A)**  
**15.9.2023**

Dictation taken by: S.G. Jawalkar.