

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI
ORIGINAL APPLICATION NO.426 OF 2018**

DISTRICT : NASHIK

Shri Rushikesh Shriram Ghodke,)
Age 20 years, occ. Nil, R/o House No.4/223/P,)
Near Morwadi, Pandit Nagar, Behind Ashwini Floor Mill)
Gitai Nivas, CIDCO, Nashik-9)..Applicant

Versus

1. The Commissioner of Police,)
Nashik City, Nashik)

2. The State of Maharashtra,)
Through Commissioner of Police, Nashik)..Respondents

Ms. I.M. Koparkar – Advocate for the Applicant – ABSENT

Ms. S.P. Manchekar – Chief Presenting Officer for the Respondents

CORAM : Shri P.N. Dixit, Vice-Chairman (A)

DATE : 9th August, 2019

J U D G M E N T

1. Applicant and learned Advocate for the Applicant both are absent.
Heard Ms. S.P. Manchekar, learned Chief Presenting Officer for the
Respondents.

2. This is a case for compassionate appointment as the father of the applicant died in the year 2000 in harness. The applicant was 2 years old at that time. His mother made an application for compassionate appointment for Class IV category. While this application was pending, a criminal case was lodged against applicant's mother under Section 498-A etc. of IPC. According to the applicant, respondent no.1 orally informed her that during the pendency of the FIR the appointment would not be considered. On 17.3.2016 the Sessions Court acquitted all the accused including the applicant. By that time she had completed 43 years and the applicant had completed 18 years of age. After acquittal, applicant's mother made representation to respondent no.1 to consider her son as substitute for compassionate appointment. On her representation she was informed on 31.12.2016 that there is no provision for substituting the name of mother. Meanwhile the applicant moved the Hon'ble High Court in Writ Petition No.14048 of 2017. The Hon'ble High Court directed the applicant to approach this Tribunal for redressal of her grievance on 20.3.2018. The applicant has made a prayer to allow substitution and direct the respondents to consider the name of the applicant as substitution in the waiting list [prayer 10(a) page 8 of OA].

3. As per the settled legal position, several judgments passed by the Hon'ble Supreme Court, Hon'ble High Court and by this Tribunal from time to time, have directed to consider the name of the substitute in the waiting list because of peculiar circumstances. The relevant judgments in this regard are as under:

- (i) Supriya Suresh Patil @ Sow Supriya Pratik Kadam Vs. State of Maharashtra & Ors., Civil Appeal No.5216 of 2018 decided by the Hon'ble Supreme Court on 12.5.2018.

- (ii) Smt. Sushma Gosain & Ors. Vs. Union of India, AIR 1989 SC 1976.
- (iii) W.P. No.8771 of 2015 Shri Dhulaji Shrimant Kharat Vs. State of Maharashtra & Ors. decided by the Hon'ble Bombay High Court on 12.12.2018.
- (iv) W.P. No.13932 of 2017 State of Maharashtra & Ors. Vs. Smt. Anusaya V. More & Anr. decided by the Hon'ble Bombay High Court on 18.7.2018.
- (v) OA No.9/2018 Shri Vijay Ganpati Lakade & Anr. Vs. State of Maharashtra & Ors. decided by this Tribunal on 8.8.2019.

4. In the peculiar circumstances, mentioned earlier, respondents are directed to consider name of the applicant as substitute in the waiting list. The Original Application is allowed in terms of prayer clause 10(a) and respondent no.1 is directed to include the name of the applicant in the waiting list at appropriate place and the applicant be informed accordingly. This order should be given effect within a period of two months from the date of receipt of this order. No order as to costs.

Sd/-

(P.N. Dixit)
Vice-Chairman (A)
9.8.2019

Dictation taken by: S.G. Jawalkar.