

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 1101/2022(S.B.)**

Rahul s/o Temraj Sarate,  
Aged about 25 years,  
Occupation - Nil, R/o. Kodelohara,  
Tah. Tirora, District Gondia.

**Applicant.**

**Versus**

1. The State of Maharashtra,  
Through its Secretary,  
Forest Department,  
Mantralaya, Mumbai -400 032.
2. The Collector,  
Gondia, Patanga Maidan,  
Amgaon Road, Tah. District - Gondia.
3. The Deputy Conservator of Forest,  
Gondia Forest Division,  
Near Jai Stambh Chowk, Gondia,  
Tah. and District - Gondia.

**Respondents**

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Shri I.N.Choudhary, Ld. Counsel for the applicant.  
Shri V.A.Kulkarni, Ld. P.O. for the respondents.

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**Coram:- Hon'ble Shri Justice M.G.Giratkar, Vice Chairman.**  
**Dated: - 21<sup>st</sup> February, 2024.**

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### **JUDGMENT**

Heard Shri I.N.Choudhary, learned counsel for the applicant and Shri V.A.Kulkarni, learned P.O. for the Respondents.

2. Case of the applicant in short is as under-

The father of applicant was in service on the post of Vanmajoor in the establishment of respondent no.3, Forest Department. The father of applicant died on 15.01.2010. The mother of applicant applied for appointment on compassionate ground. Her name was recorded in the waiting seniority list. The respondents have not provided any employment to the mother of applicant. The mother of applicant attained the age of 43 years. Therefore, she applied on 18.02.2017 to substitute the name of applicant in placed of her name. The respondents have informed vide letter dated 24.08.2022 stating that there is no provision in the G.R. dated 21.09.2017 to substitute the name of legal heirs once the name of any of the legal heirs are taken in the waiting seniority list. Hence, the applicant approached to this Tribunal for the following reliefs-

*(i) quash and set aside communication / order dated 24.08.2022 issued by the respondent no.2 and direct the respondents to appoint the applicant on compassionate*

*ground in place of his father under class - C or Class - D category;*

*(ii) held that the applicant is entitled for appointment on compassionate ground in place of his deceased father under Class - C or Class-D category in respondents department;*

*(iii) grant any other relief which this Hon'ble Court deems fit and proper in the facts and circumstances of the present case and in the interest of justice.*

3. During the course of submission, learned counsel for the applicant has pointed out the Judgment of Hon'ble Bombay High Court, Bench at Aurangabad in the case of **Dnyaneshwar Ramkishan Musane Vs. The State of Maharashtra & 2 Ors. decided on 11.03.2020** and submitted that the unreasonable restrictions imposed by the G.R. dated 20.05.2015 is directed to be deleted. Hence, at last submitted that the name of applicant be substituted in place of the name of his mother.

4. The learned P.O. has submitted that the G.R. of 2017 is very clear. There is no provision for substitution. Hence, the O.A. is liable to be dismissed.

5. The G.R. dated 21.09.2017 is the accumulation of all earlier G.Rs. in respect of appointment on compassionate ground. As per the G.R. dated 20.05.2015, the substitution was not provided/ allowed. Hence, the G.R. was challenged before the Hon'ble Bombay

High Court, Bench at Aurangabad. In the case of **Dnyaneshwar Ramkishan Musane Vs. The State of Maharashtra & 2 Ors.** 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.*

6. The Government of Maharashtra has not acted upon above order passed by the Hon'ble Bombay High Court, Bench at Aurangabad. The unreasonable restrictions imposed by the G.R. dated 20.05.2017 is still inexistence. As per above cited Judgment, the unreasonable restrictions imposed by the G.R. dated 20.05.2017 is already directed to be removed.

7. The name of the mother of applicant was / is on waiting seniority list. The respondents have not provided any employment to the mother of applicant. The mother of applicant attained the age of 43 years. Therefore, she had applied on 18.02.2017 stating that the applicant has now completed 18 years of the age and therefore, employment be provided to him. The substitution should have been done by the respondents. As per the above cited Judgment, the information / impugned order of respondent is liable to be quashed and set aside. Hence the following order is passed-

**ORDER**

1. The O.A. is allowed.
2. The impugned communication / order dated 24.08.2022 is hereby quashed and set aside.
3. The respondent no.2 is directed to substitute the name of applicant in the waiting seniority list for

appointment on compassionate ground and provide employment as per Rules.

4. No order as to costs.

**(Justice M.G.Giratkar)**  
**Vice Chairman**

**Dated - 21/02/2024.**  
**rsm.**

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 : 21/02/2024.  
Uploaded on : 26/02/2024.

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