

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO. 60/2023(S.B.)**

1. Smt.Sandhya Ashok Chavan,
Age 44 years, Occ. – Household.
2. Chetan Ashok Chavan,
Aged 22 years, Occ.-Education,
Both R/o. JogaldariTq. Mangrulpir
Dist. Washim.

Applicants.**Versus**

1. State of Maharashtra,
Through Additional Chief Secretary,
Home Department,
Mantralaya, Mumbai-400 032.
2. Superintendent of Police,
Washim Dist. Washim.

Respondents

Shri V.B.Bhise,N.R.Shiralkar, A.Motlag, Ld. Counsel for the applicants.
Shri H.K.Pande, Ld. P.O. for the respondents.

Coram:-Hon'ble Shri Justice M.G.Giratkar, Vice Chairman.

Dated: - 25thJanuary, 2024.

JUDGMENT

Heard Shri V.B.Bhise, learned counsel for the applicants and Shri H.K.Pande, learned P.O. for the Respondents.

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

The husband of applicant no.1 namely Ashok Chavhan was serving as a Police Constable on the establishment of respondent no.2. Her husband died on 01.05.2001 due to Blood Cancer while he was in service. The applicant no.1 is widow of Ashok Chavhan and applicant no.2 is son of the applicant no.1. After the death of deceased, applicant no.1 has made application for appointment on compassionate ground on 20.01.2001. Her name was recorded in the waiting seniority list. Her name is shown at Sr.No.1 in the waiting seniority list, but till date no any employment is provided to the applicant no.1. The applicant no.1 is aged about 44 years. Her son i.e. applicant no.2 has passed 12thStd. examination and he is aged more than 18 years. Therefore, she applied for substitution of name of applicant no.2 as per applications dated 01.02.2018 and 01.08.2019.

3. Reply is not filed by the respondents. As per the submission of learned counsel for the applicants, applications dated 01.02.2018 and 01.08.2019 for substitution of the name of applicant no.2 are not replied by the respondents.

4. During the course of submission, the learned counsel for the applicants has submitted that the respondents may reject the same in view of the G.R. dated 20.05.2015 and therefore prayed to direct the respondents to substitute the name of applicant no.2.

5. In support of his submission point out the decision of the Hon'ble Bombay High Court, Bench at Aurangabad in the case of **Dnyaneshwar S/o Ramkishan Musane Vs. State of Maharashtra & Others** and the Judgment of Hon'ble Bombay High Court in the case of **Aruna Anilrao Harne and Anr. Vs. State of Maharashtra and Ors.**

6. The applicant no.1 is waiting for service on compassionate ground, but since 2001 no any service is provided by the respondents. Now, she has completed 44 years age. As per the G.R. of 2017, her name may be removed from the waiting seniority list after completion of the age of 45 years. The respondents have also not substituted the name of applicant no.2 in place of applicant no.1.

7. The Hon'ble Bombay High Court, Bench at Aurangabad in the case of **Dnyaneshwar S/o Ramkishan Musane Vs. State of Maharashtra & Others** has held that unreasonable restrictions imposed by the G.R. dated 20.05.2015 is liable to be deleted. Therefore, the Hon'ble High Court 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.”

8. The Hon'ble Bombay High Court in the case of **Aruna Anilrao Harne and Anr. Vs. State of Maharashtra and Ors.** the Hon'ble Bombay High Court has also relied on the Judgment in the case of **Dnyaneshwar S/o Ramkishan Musane Vs. State of Maharashtra & Others** and the Judgment in the case of **Smt. Vandana Wd/o. Shankar Nikure and another Vs. the State of Maharashtra and others** and directed the respondents to consider the case of Petitioner no.2 for grant on compassionate appointment by substituting her name in the waiting list in place of Petitioner no.1.

9. The applicant no.1 is waiting for appointment on compassionate ground since 2001. Since last 22 years, no any employment is provided by the respondents. They have also not replied the application for substitution of her son's name i.e. the applicant no.2. The respondents may reject her claim in view of G.R. dated 20.05.2015. The Hon'ble Bombay High Court, Bench at Aurangabad in the case of **Dnyaneshwar S/o Ramkishan Musane Vs. State of Maharashtra & Others** has held that substitution is provided and unreasonable restrictions as per G.R. dated 20.05.2015 is liable to be deleted.

Hence, the following order is passed-

ORDER

1. The O.A. is allowed.

2. The respondents are directed to substitute the name of applicant no.2 in the waiting seniority list in place of applicant no.1 and provide him employment on compassionate ground as per the seniority and as per the Rules.

3. No order as to costs.

(Justice M.G.Giratkar)
Vice Chairman

Dated - 25/01/2024
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 : 25/01/2024.
Uploaded on : 02/02/2024.
