

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR

ORIGINAL APPLICATION NO.281/2024 (S.B.)

1. Smt. Archana wd/o Anandrao Jadhav,
Aged about 56 years, Occu.: Nil,

2. Mr. Vicky s/o Anandrao Jadhav,
Aged about 28 years, Occu.: Nil,

B/o R/o Chikhali Road, Anand Nagar,
Tahsil and District Buldana.

... **APPLICANTS**

// V E R S U S //

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

2] The Director General of Police,
State of Maharashtra,
Near Regal Talkies, Culaba, Mumbai.

3] Superintendent of Police, Buldana,
Opposite Collector Office, Buldana,
Tahsil and District Buldana 443001.

4] District Collector Buldana,
O/o Collector compound Buldana,
Near State Bank Square, Buldana-443001.

... **RESPONDENTS**

**Shri A.P. Sadavarte, Miss. Neelu Thakre, Ld. Advs. for
the Applicants.**

Smt S.R. Khobragade, Ld. P.O. for the Respondents.

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

Dated :- 24/01/2025.

J U D G M E N T

Heard Shri A.P. Sadavarte, learned counsel for the applicants and Smt S.R. Khobragade, learned P.O. for the respondents.

2. The case of applicants in short is as under:-

The husband of applicant No.1 namely Anandrao Jadhav was working as a Police Constable. Departmental enquiry was started against him and he was compulsorily retired on 06/02/2004. The said order was challenged by the deceased wife before the First Appellate and Second Appellate Authority. The husband of applicant No.1 was compulsorily retired on 06/02/2004. The said order was maintained by the First Appellate Authority and Second Appellate Authority. Deceased husband of

applicant No.1 died on 11/05/2006. The applicant No.1 has challenged the order of compulsorily retirement in O.A. No.100/2010. The punishment was modified by this Tribunal. In that O.A., respondents were directed to give the pensionary benefits to the applicant as per Rules.

3. The applicant had applied for appointment on compassionate ground in the Year 2006. She was not appointed on compassionate ground. She was temporarily appointed as a helper in Police Mess. There is no any appointment order issued by the respondents on any regular post. Applicant No.1 has prayed to appoint applicant No.2 as per application dated 26/11/2015, but said application is not decided by the respondents even though Superior Officer had directed to consider the same. Therefore, applicant approached to this Tribunal for the following reliefs:-

“12(i) Direct the respondents to give an appointment to Applicant No.2 on compassionate ground.

(ii) Direct the respondents to give the seniority to applicant no.2 in the waiting list since, his representation dated 28.1.2019 (Annexure-A-9) and accordingly consider his candidature for appointment on compassionate ground.

(iii) Direct the respondent no.3 to decide the Application of applicant on compassionate ground as per the directive communication dated 21.01.2020 & 10.6.2021 issued by respondent no.2 to respondent no.3 (Annexure-A-10 &11)

(iv) Direct the respondent to consider the candidature of applicant no.2 on the post of Sweeper or Peon or Cook assistant or helper in police mess or police band artist or on similar Post at Respondent No.4 establishment on compassionate ground as per rule.

(v) Direct the respondent to decide the representation of applicant's dated 13.12.2022, 09.08.2023 & 11.03.2024 (Annexure-A-13, 14 & 15);”

4. There is no dispute that husband of applicant No.1 was charge-sheeted by the Respondent / Disciplinary Authority for the mis-conduct committed by him, he was compulsorily retired. The said order was challenged before the First and Second Appellate Authority. The said order was maintained by the First and Second Appellate Authority.

5. Learned counsel for applicants has pointed out the direction given by the Director General of Police, Mumbai as per orders / letters dated 21/01/2020 and 10/06/2021, by which the Superintendent of Police, Buldhana was directed to consider the claim of applicant No.1. Learned counsel for applicants has

therefore prayed to direct the respondents to decide application of applicant No.1 by appointing her son i.e. applicant No.2.

6. It is pertinent to note that the husband of applicant No.1 not died during the service. He was compulsorily retired after departmental enquiry as per order dated 06/02/2004. After the death of husband of applicant no.1, the applicant no.1 filed O.A. No.100/2010 before this Tribunal. This Tribunal has passed the following order:-

“(i) The O.A. is allowed.

(ii) The impugned order dated 16/06/2022 issued by respondent No.4 is hereby quashed and set aside.

(iii) The respondents are directed to enter the name of applicant in the waiting seniority list and provide the employment on compassionate ground as per rules and policy of the Government.

(iv) No order as to costs.”

7. From the perusal of the above order, it appears that punishment order is not quashed and set aside. Only quantum of punishment is modified. As per the Judgment, the penalty of compulsorily retirement is substituted with reduction to a lowest

time scale of pay permanently. Therefore, it is clear that the misconduct of husband of applicant No.1 was proved and he was compulsorily retired by the respondents.

8. There is nothing on record to show that husband of applicant No.1 died when he was in service. He was compulsorily retired. After the retirement, he died on 11/05/2006. The name of applicant No.1 was / is not recorded in the waiting seniority list, therefore, she cannot claim that name of applicant No.2 be substituted in her place. The Judgment cited by the applicants in O.A. No.1287/2024 is on the point of substitution. In the present O.A., there is no question of any substitution, because, there is nothing on record to show that name of applicant No.1 was recorded in waiting seniority list. Therefore, name of applicant No.2 cannot be substituted in place of applicant No.1. Moreover, husband of applicant No.1 not died during the service, he was compulsorily retired. There is no provision in any G.R. to provide service on compassionate ground to the legal heirs of the deceased employee who was compulsorily retired by taking disciplinary action by the Appointing Authority. The applicant No.1 has failed

to establish that Applicant No.2 is entitled to get appointment on compassionate ground. Hence, the following order:-

O R D E R

O.A. is dismissed with no order as to costs.

(Justice M.G.Giratkar)
Vice Chairman.

Dated :-24/01/2025.

PRM.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : Piyush R. Mahajan.

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 24/01/2025.