

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

ORIGINAL APPLICATION NO.307 OF 2023

**DISTRICT : Kolhapur
SUB : Compassionate Appointment**

1. Smt. Geeta Dinkar Johar,)
Age: 50 Years, Occu: Household,)
R/o. A/P. Radhanagri, Tal. Radhanagari,)
District: Kolhapur.)
2. Shri. Digvijay Dinkar Johar,)
Age 24 Years, Occu: Nil,)
R/o. A/P. Radhanagri, Tal. Radhanagari,)
District: Kolhapur.).....Applicants

V/s

1. The State of Maharashtra, Through the)
Addl. Chief Secretary, Revenue and Forest)
Department, Mantralaya,)
Mumbai - 400 021.)
2. The District Collector, Kolhapur,)
Having office at, Collectorate of Kolhapur,)
Swarajya Bhavan, Nagala Park, Kolhapur.)
3. The Residential Deputy Collector, Kolhapur)
Having office at Collectorate of Kolhapur,)
Swarajya Bhavan, Nagala Park, Kolhapur.)
4. The Tahsildar, Radhanagari, Taluka :)
Radhanagari, Dist. Kolhapur.).....Respondents.

Shri P. S. Bhavke, learned Advocate for the Applicant.

Smt. Kranti Gaikwad, learned Presenting Officer for the Respondents.

CORAM : Hon'ble Shri M. A. Lovekar, Vice-Chairman

Reserved on : 22.01.2025

Pronounced on : 24.01.2025

JUDGEMENT

Heard Shri P. S. Bhavake, learned Advocate for the Applicants and
Smt. Kranti Gaikwad, learned Presenting Officer for the Respondents.

2. Dinkar Johar was employed as 'Clerk' in the office of Respondent No.2. He died in harness on 18.01.2008. The Applicant No.1 is wife of the deceased. The Applicant No.2 is son of the deceased. The Applicant No.1 applied for appointment on compassionate ground on 15.02.2008. At this point of time, the Applicant No.2 and his sisters were minor. On 27.09.2016, waiting list for appointment on compassionate ground was prepared. In this list, name of the Applicant No.1 featured at Sr. No.2. However, appointment order was not issued to Applicant No.1. On 19.05.2018, the Applicant No.1 attained the age of 45 years and became ineligible to get appointment on compassionate ground. On 07.01.2021, she filed an application in the office of Respondent No.2 requesting that Applicant No.2 be appointed on compassionate ground. By the impugned order dated 22.01.2021 (Exhibit 'I'), the application dated 07.01.2021 was rejected on the ground that there was no provision for substituting name of one dependent of the deceased by another. Hence, this Original Application.

3. In their reply, the Respondents have stated that on attaining the age of 45 years on 19.05.2018, name of the Applicant No.1 was removed from the waiting list. The application dated 07.01.2021 made by the Applicant No.1 to consider her son i.e. Applicant No.2 was misconceived as there was no enabling provision to allow such substitution. In this view of the matter, the impugned order refusing substitution was passed.

4. The only point which arises for determination is whether in the above referred facts and circumstances, by way of substitution, the Applicant No.2 can be considered for giving appointment on compassionate ground. The issue is no longer *res-integra*. In common judgment dated 28.05.2024 passed by the Full Bench of the Hon'ble Bombay High Court in a batch of Writ Petitions (***Kalpana Wd/o Vilas Taram and 1 another v/s State of Maharashtra along with companion Writ Petitions***), it is held that substitution of one dependent of the deceased by another for giving appointment on

compassionate ground is permissible. The Full Bench formulated question no.1 for its decision and answered it as follows :-

Sr. No.	Questions	Answer
1	Considering the object of compassionate appointment, to provide immediate succour to the family of the deceased employee who dies in harness, as is spelt out in <i>Umesh Kumar (supra)</i> , <i>Nilima Nagpal Khapekar (supra)</i> and <i>Raju Debabrata Tiwari (supra)</i> whether the view taken in <i>Dnyaneshwar Musane</i> and other similar matters as indicated above would be correct?	The view taken in the case of <i>Dnyaneshwar Musane (supra)</i> by the Division Bench of this Court and other similar matters, is correct and is in consonance with the object of compassionate appointment spelt out in <i>Umesh Kumar Nagpal (supra)</i> , <i>Nilima Raju Khapekar (supra)</i> and <i>Debabrata Tiwari (supra)</i>

5. In view of aforesaid legal position, the Original Application is allowed. The Respondents are directed to include name of the Applicant No.2 in the waiting list for appointment on compassionate ground within one month from today, and take further steps in accordance with law.

6. No order as to costs.

Sd/-
(M. A. Lovekar)
Vice-Chairman