

ORIGINAL APPLICATION NO.81 OF 2024

Shri Rohan Chincholappa Adakul,)
Aged 28 Years, Occ. Nil, R/o.158,)
Sanjay Nagar, Kumtha Naka, Solapur.)... **Applicant**

The Executive Engineer, Public Works Division, Solapur, having office at Seven Roads, opp. Karigal Petrol Pump, Solapur 3.)
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)...**Respondents**

Shri A. J. Chougule, learned Presenting Officer for the Respondents.

CORAM : Hon'ble Shri M. A. Lovekar, Hon'ble Member (J)

Reserved on : 15.01.2025

Pronounced on : 17.01.2025

Heard Shri A. V. Bandiwadekar, learned Advocate for the Applicant and Shri A.J. Chougule, learned Presenting Officer for the Respondent.

2. Chincholappa, Father of the Applicant was employed as 'Mazdoor' in the Respondent department. He died in harness on 06.07.2004. whereupon his wife Smt. Padmini (Mother of the Applicant) applied for appointment on compassionate ground on 16.11.2004. By communication dated 03.07.2008, she was informed that on account of attaining 40 years of age, her name was deleted from the waiting list. At that time, the Applicant was minor. His date of birth is 02.09.1995.

After attaining majority, on 27.05.2016, he applied for appointment on compassionate ground in place of his mother. On 29.07.2021, he submitted a reminder as nothing was informed to him. In respect of letter dated 27.09.2021 written by the Superintending Engineer, Public Works Circle, Kolhapur to the Respondent, the Respondent did not take any decision for appointing the Applicant on compassionate ground. Therefore, the Applicant sent a reminder dated 10.08.2023 to the Respondent in response to which the impugned order was passed on 01.09.2023 stating therein that appointment on compassionate ground was not a heritable right, it could not be given after lapse of considerable period from the date of death of the employee, and there was no enabling provision for substitution as sought by the Applicant. Hence, this Original Application.

3. In his reply, the Respondent has reiterated the grounds which were set out in the impugned order.

4. The issue involved in the Original Application has been decided by a Full Bench of the Hon'ble Bombay High Court in the case of ***Kalpna Wd/O Vilas Taram And Another vs State Of Maharashtra & Others, 2024 (4) Mh.L.J 312***. In this ruling, it is held :-

Sr. No.	Questions	Answers
i)	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 Umesh Kumar Nagpal (supra), Nilima Raju Khapekar (supra) and Debabrata Tiwari (supra), whether the view taken in Dnyaneshwar Musane (supra) and in other similar matters as indicated above would be correct?	The view taken in the case of Dnyaneshwar Musane (supra) 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 Umesh Kumar Nagpal (supra), Nilima Raju Khapekar (supra) and Debabrata Tiwari (supra)

ii)	ii) Whether the policies of the State, which provide for creating a wait list of the candidates for compassionate appointment and in some cases permit substitution, even on account of crossing a particular age limit of 45 years is contrary to the object and purpose for which a compassionate apportionment has to be granted?	<p>a) Maintaining a wait list of candidates for compassionate appointments is not contrary to the object and purpose for which a compassionate appointment must be granted.</p> <p>b) Seeking substitution of the name of another member in place of a member who has applied on account of crossing the age limit of 45 years is not contrary to the object and purpose for which compassionate appointment must be granted.</p>
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5. In view of the legal position stated as above, the impugned order is quashed and set aside. The Respondent is directed to include name of the Applicant in the waiting list for appointment on compassionate ground if he is found to be otherwise eligible, within one month from today, and proceed further in accordance with relevant rules.

6. The Original Application is allowed in these terms with no order as to costs.

Sd/-
(M. A. Lovekar)
Member (J)

Place: Mumbai
Date: 17.01.2025
Dictation taken by: V. S. Mane
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