

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No.161 of 2024 (S.B.)

Shantanu S/o Ravindra Mankar,
Aged about 21 Years, Occu- education,
R/o Samta Nagar, Nagpur.

Applicant.

Versus

1. Superintendent of Police,
Nagpur District (Rural), Nagpur.
2. The Secretary,
Home Department, World Trade Centre,
Cuffe Parade, Mantralaya, Mumbai- 32.
3. The Secretary,
General Administrative Department,
6th floor, Mantralaya, Mumbai - 32.
4. Anita Wd/o Ravindra Mankar,
aged about years, Occ. Nil,
R/o Samta Nagar, Nagpur.

Respondents.

Mrs. Ashiwini Athalye, Anjali Agrawal, Advs. for the applicant.
Smt. A.D. Warjekar, learned P.O. for respondent nos.1 to 3.
Shri M.M. Agnihotri, Advocate for respondent no.4.

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

Dated :- 24/02/2025.

JUDGMENT

Heard Smt. Ashwini Athalye, learned counsel for applicant, Smt.
A.D. Warjekar, learned P.O. for respondent nos.1 to 3 and none for
respondent no.4.

2. The case of the applicant in short is as under -

The father of applicant was working with respondent department. He was on election duty at Awale Ghast Polling Booth in Ramtek Constituency. On 15/10/2014, due to an accidental lightning, the father of applicant died. The inquest Panchnama, etc. was conducted. The Mother of applicant made an application on 26/11/2014 for appointment on compassionate ground. Her name was taken in the waiting seniority list, but her name was removed from the waiting seniority list after completion of age of 45 years. The mother of applicant applied for substitution of name of her son, i.e., applicant on 13/12/2021, but her application is rejected by the respondent authority on 15/12/2023 on the ground that substitution is not provided. Hence, the applicant approached to this Tribunal for the following reliefs –

“ (9) (A) Issue appropriate order of direction to the respondents to consider the name of the applicant for appointment on compassionate ground by quashing the impugned letter dated 15th December, 2023 issued by respondent No- 1.

(B) Direct the respondents to appoint the applicant on compassionate ground in any of department of respondents in the District of Nagpur.

(10) (i) Be pleased to direct the respondents to keep one post vacant for appointment of applicant on compassionate ground during the pendency of the instant application.”

3. The O.A. is strongly opposed by the respondent authority. It is submitted that the mother of applicant applied for appointment on

compassionate ground. Her name was in the waiting seniority list. She had completed 45 years of age and therefore her name was removed from the waiting seniority list. Because of the entry of the name of mother of applicant in the waiting seniority list, the applicant is not entitled for appointment on compassionate ground as per the G.R. dated 20/05/2015. Hence the O.A. is liable to be dismissed.

4. The material part of the order dated 15/12/2023 is reproduced below –

“आपली वयाची मर्यादा अधिक होणार असल्याने आपले ऐवजी मोठा मुलगा श्री शंतनु मानकर यास नौकरी देण्याबाबतचा विनंती अर्ज सादर केला होता. परंतु महाराष्ट्र शासन, सामान्य प्रशासन विभाग, शा.नि. क्रमांक अकंपा-१०१४/प्र.क. १६४/आठ, दि. २० मे २०१५ मध्ये नमुद प्रमाणे कर्मचा-याच्या मृत्यु नंतर त्याच्या पात्र कुटुंबीयांचे नांव अनुकंपा धारकांच्या प्रतीक्षासूचीमध्ये घेतल्यानंतर त्याच्या ऐवजी अन्य पात्र वारसदाराचे नांव प्रतीक्षासूचीमध्ये घेतले जात नाही. म्हणजेच प्रतीक्षा सूची मधील नांव बदलण्याची तरतुद सध्याच्या धोरणात नाही.

करीता अर्जदार अनिता रविंद्र मानकर यांचे ऐवजी त्यांचा मोठा मुलगा श्री शंतानु रविंद्र मानकर यास अनुकंपा तत्वावर नियुक्ती देण्याबाबत विनंती अर्ज फेटाळण्यांत येत आहे.”

5. The Hon'ble Bombay High Court, Bench at Aurangabad in the case of **Dnyaneshwar S/o Ramkishna Musane Vs. State of Maharashtra & Others**, it is held that G.R. 20/05/2015 is not legal and correct, therefore, the following direction was given –

"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. Thereafter, there was another contradictory Judgment. Therefore, the matter was kept before the Full Bench of Hon'ble Bombay High Court, Bench at Nagpur in the case of **Kalpna Wd/o V. Taram & Ano. Vs. State of Maharashtra & Ors.**, in W.P.No.3701/2022 with connected W.Ps., decided on 28/05/2024. The Full Bench of the Hon'ble Bombay High Court, Bench at Nagpur

has held that view taken in the **Musane's** case is perfectly legal and correct. The Full Bench of the Hon'ble High Court has taken a view that substitution is permissible. Hence, rejection of application of the applicant's mother on the ground that G.R. dated 20/05/2015 not permit to substitute the name of applicant is not legal and correct. Hence, the following order -

ORDER

1. The O.A. is allowed.
2. The respondent nos.1 to 3 are directed to enter the name of applicant in the waiting seniority list and provide the employment, as per rules.
3. No order as to costs.

Dated :- 24/02/2025.

dnk.

(Justice M.G. Giratkar)
Vice Chairman.

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

Name of P.A. : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 24/02/2025.

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