

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI,  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 781 OF 2021**

**DISTRICT : BEED**

**Afroz Khan Karim Khan,** )  
Age : 34 Years, Occ. : Nil, )  
R/o. Shaunagar, Beed, Tq. and Dist. Beed. )

**.... APPLICANT**

**V E R S U S**

**1. The State of Maharashtra,** )  
Through the Secretary of General )  
Administration Department, )  
Mantralaya, Mumbai-32. )

**2. The Collector,** )  
Beed. )

**3. The Deputy Collector,** )  
Beed. )

**... RESPONDENTS**

**APPEARANCE** : Shri M.B. Kolpe, learned counsel holding for  
Shri A.R. Tapse, learned counsel for  
Applicant.

: Shri A.P. Basarkar, Presenting Officer for  
respondent authorities.

**CORAM** : **Shri A.N. Karmarkar, Member (J)**

**RESERVED ON** : **14.02.2025**

**PRONOUNCED ON** : **16.04.2025**

**O R D E R**

1. By filing present Original Application, the applicant  
has prayed for quashing and setting aside orders dated

06.07.2019 and 05.10.2021 issued by respondent No. 3. He has also sought direction to respondent No. 3 to include the name of the applicant instead of his sister in the list on compassionate ground.

2. According to the applicant, his mother Mumtajibano Karim Khan is serving as Peon with respondents and she died on 04.07.1995 due to cancer. One of the sisters of the applicant is also no more. After death of mother of the applicant, elder sister viz. Jarina Banu Karim Khan of the applicant had applied to respondent No. 3 to get appointment on compassionate ground. Heir-ship certificate was attached with the application. The respondent No. 3 has recommended the name of applicant's sister Jarina Banu along with three other candidates for the post of Peon. The Dean of Swami Ramanand Tirth Rural Medical College Hospital, Ambajogai issued letter dated 06.12.2002 mentioning that the proposal for getting appointment on compassionate ground is not received from the office of Collector Beed and vacant posts are to be filled up from the list of candidates, who have worked as Seasonal worker. Therefore, the appointment to Jarina Banu cannot be given. Then the applicant's sister Jarina Banu got married in the year 2008 and her husband and other family members are not allowing her to

do job. So she has given undertaking in favour of the present applicant for substituting her name by this applicant. Jarina Banu has also submitted an application dated 15.12.2008 to respondent No. 3 for substituting her name by the applicant.

In pursuance of said letter, the District Supply Officer, Beed vide letter dated 20.02.2009 forwarded the application to respondent No. 3 for passing appropriate orders and respondent No. 3 has not resolved the grievance till 05.07.2019. On 06.07.2019, the respondent No. 3 informed about rejection of claim of the applicant on the ground of absence of policy to substitute the name of candidate on waiting list. The applicant has received the said letter just before lockdown on the ground of COVID-19 pandemic. He has again filed applications on 09.06.2020 and 12.06.2020 for compassionate appointment. The applicant has filed W.P. No. 12972/2021 before the Hon'ble High Court of Bombay, Bench at Aurangabad. It was disposed of on the ground of availability of alternate remedy. The respondent No. 3 again passed the similar order and rejected the claim of the applicant on 05.10.2021.

3. Respondent Nos. 2 & 3 have filed their affidavit in reply (page No. 108 of paper book). According to them,

applicant's sister filed application dated 22.09.2008 for substituting her name in the waiting list by the name of applicant. It was forwarded to respondent No. 3. Since there was no provision to substitute the name of candidate in the waiting list, grievance could not be resolved. Vide order dated 06.07.2019, the respondent No. 3 has disposed of the application of the applicant and his sister informed about absence of provisions of substitution of name of the candidate. Similar order was passed on 05.10.2021 and the claim of applicant was rejected.

4. I have heard Shri M.B. Kolpe, learned counsel holding for Shri A.R. Tapse, learned counsel for applicant and Shri A.P. Basarkar, Presenting Officer for respondent authorities. Both the parties have submitted as per their respective contentions.

5. It is undisputed fact that the mother of applicant died on 04.07.1995 and then the applicant's sister initially filed application for getting appointment on compassionate ground. The applicant has placed on record letter of District Collector, Beed to Dean, Swami Ramananda Tirth Government Medical College Hospital, Ambajogai dated 16.10.2001 recommending the name of applicant's sister for appointment on compassionate

ground. The applicant has also placed on record letter of Dean, Swami Ramananda Tirth Government Medical College Hospital, Ambajogai dated 06.12.2002 (page No. 19 of paper book) that the proposal in respect of the applicant's sister was not received from the Collector office to their institute and vacancies were to be filled in by Seasonal Workers. These contentions of the applicant are not specifically denied by the respondents.

It is also undisputed fact that the applicant's sister had applied on 15.12.2008 (Annexure A-5, page No. 22 of paper book). Since she was elder than other siblings, the sister of applicant has filed application for getting appointment on compassionate ground. But now she got married and member of her matrimonial home are not ready to allow her to do job. So she has requested for substituting her name by the present applicant. Same type of application was filed on 24.11.2009. It appears that the application for substitution dated 15.12.2008 was forwarded by the District Supply Officer to the Collector Beed on 20.02.2008. The present applicant has filed application on 02.06.2019. It was mentioned in the said application that his sister has already requested before 10 years to substitute her name by the applicant. Now the applicant is elder member in the family and has sought appointment on compassionate ground. It

is clear from the material on record that the applicant's sister was not made available job on compassionate ground nor her name was deleted from the list. The applicant was communicated about rejection of his claim due to absence of provisions of substitution.

6. According to the applicant, impugned communication dated 06.07.2019 was received just before lockdown on the ground of COVID-19 pandemic. He has again filed applications on 09.06.2020 and 12.06.2020 for getting appointment on compassionate appointment. The claim of the applicant was again rejected on the ground of absence of provisions for substitution vide order dated 05.10.2021.

7. Learned counsel for the applicant has relied on the decision in a case of **Dnyaneshwar s/o Ramkishan Musane Vs. The State of Maharashtra and Ors. in W.P. No. 6267/2018**, in which the Hon'ble High Court of Bombay, Bench at Aurangabad in para No. 5 has held as under:-

*"5. After hearing learned advocates for the parties and going through the Government Resolution dated 20.05.2015, we are of the view that the prohibition imposed by the Government Resolution dated 20.05.2015 that name of any legal representative of deceased employee would not be substituted by*

*any other legal representative seeking appointment on compassionate ground, is arbitrary, irrational and unreasonable and violates the fundamental rights guaranteed by Article 14 of the Constitution of India. As the per the policy of the State Government, one legal representative of deceased employee is entitled to be considered for appointment on compassionate ground. The prohibition imposed by the Government Resolution dated 20.05.2015 that if one legal representative of deceased employee stakes claim for appointment on compassionate ground, then name of another legal representative of that deceased employee cannot be substituted in the list in place of the other legal representative who had submitted his/her application earlier, does not further the object of the policy of the State Government regarding appointments on compassionate grounds. On the contrary, such prohibition frustrates the object for which the policy to give appointments on compassionate grounds is formulated. It is not the case of respondent no.2 that petitioner's mother was given appointment on compassionate ground and then she resigned and proposed that petitioner should be given appointment. The name of petitioner's mother was in waiting list when she gave up her claim and proposed that the petitioner should be considered for appointment on compassionate ground."*

Similarly as discussed above, name of the sister of applicant was not deleted from the list nor, job on compassionate ground was made available for a long time.

8. Learned counsel for the applicant has relied on the recent judgment of Full Bench of Hon'ble High Court of Bombay, Nagpur Bench in **W.P. No. 3701/2022 (Kalpana Wd/o Vilas Taram**

**& Anr. Vs. The State of Maharashtra and Ors.) and other connected W.Ps.** dated 28.05.2024. The Hon'ble High Court has answered the reference question No. (i) as under :-

Sr. No.	Questions	Answer
(i)	<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 and other similar matters as indicated above would be correct ?</i>	<i>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)</i>

The Hon'ble High Court in a case of **Kalpana Wd/o Vilas Taram & Anr.** (cited supra) in para Nos. 41 and 42 has held as under :-

*"41. It may be noted there may be a number of reasons justifying the request for substitution of name in consonance with the object of compassionate employment. Though, it is difficult to anticipate every such situation, few are stated hereunder as illustrations:*

- i) The widow of the employee, aged 41 years or more applies with an expectation that before she attains age of 45 years, she would get employment. However, because of delay in appointment, her son/daughter attains the minimum age of 18 years*
- ii) If the member who is beyond 18 years of age and is pursuing his studies, applies for appointment but*



*because no appointment is made immediately he may have reached a particular stage in his academic career where pursuing further academic course is far more important for future prospects and consequently, the family members instead of him, seek employment in favour of any other member of the family.*

- iii) On making an application by one of the members of the family and before the appointment is made, family realizes that for certain reasons another member is more appropriate and suitable for an appointment.*
- iv) On making the application such member of the family becomes incapacitated physically or medically.*
- v) The widow of the deceased employee applies as the son/daughter is a minor. But, before the appointment is made, the son/daughter attains age of 18 years and the family takes a decision that it would be more appropriate to seek employment for the son/daughter.*

*42. In any of the above eventuality denial to substitute the name amounts to denial to grant compassionate appointment contrary to the scheme.”*

The case of the present applicant can be said to be covered by the illustration Nos. (iii) and (v). So in view of the judgment of Full Bench of Hon'ble High Court of Bombay, Nagpur Bench in a case of **Kalpana Wd/o Vilas Taram & Anr.** (cited supra), it will be difficult to accept that the impugned communication is legal, proper and correct.

9. Learned Presenting Officer has tried to rely on the decision in a case of **Civil Appeal No. 8540/2024 (Tinku Vs. State**

**of Haryana and Ors.), dated 13.11.2024.** This matter appears to be pertaining to Haryana Compassionate Assistance to the Dependents of Deceased Government Employee, Rules 2006. The rejection of claim for appointment on compassionate ground in that matter was that from the date of death of the Appellant's father till he having become major, 11 years had passed rendering the claim time barred. For this purpose reliance was placed on the Government instructions dated 22.03.1999 where a minor dependent of a deceased government employee gets the benefit provided he/she attains age of majority within a period of three years from the date of death of the government employee. So this judgment can be distinguished on facts and cannot be made applicable to the case of the applicant. Learned Presenting Officer has further relied on the decision of Hon'ble Supreme Court in a case of **Canara Bank Vs. Ajithkumar G.K. in Civil Appeal No. 255/2025 (Arising out of SLP (Civil) No. 30532/2019).** In that matter a scheme for appointment on compassionate ground formulated by the appellant-Canara Bank and contained in Circular No. 154/93 dated 08.05.1993 was in force when such death of father of respondent in that matter occurred. Subsequently, the concerned Branch introduced scheme "SCHEME FOR PAYMENT OF LUMP SUM EX-GRATIA AMOUNT

IN LIEU OF EMPLOYMENT ON COMPASSIONATE GROUNDS” on 14.02.2005. The order passed by the Deputy General Manager refusing the respondent appointment on compassionate ground was held by the High Court to be not in accordance with the scheme of 1993. The appellant was directed by Hon’ble High Court of Kerala to consider the issue raised by respondent in that matter as per the Scheme of 1993. This citation can be distinguished on facts.

10. For the reasons stated above, the present Original Application deserves to be allowed. Hence, the following order :-

**ORDER**

- (i) The Original Application is allowed.
- (ii) Orders dated 06.07.2019 & 05.10.2021 issued by respondent No. 3 are hereby quashed and set aside.
- (iii) The respondents shall include the name of applicant in the waiting list prepared for compassionate appointment within a period of one month from the date of this order and shall take further steps in accordance with law.
- (iv) There shall be no order as to costs.

**(A.N. Karmarkar)**  
**Member (J)**

**PLACE : Aurangabad**

**DATE : 16.04.2025**

**KPB S.B. O.A. No. 781 of 2021 ANK Compassionate Appointment**