

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

**ORIGINAL APPLICATION NO. 1144 OF 2022**

**DISTRICT : NANDED**

**Ritesh S/o Chandrakant Kamble,** )  
Age : 19 Years, Occ. : Nil, )  
R/o : Jomegaon, Tal. Loha, Dist. Nanded. )

**.... APPLICANT**

**V E R S U S**

1. **The State of Maharashtra,** )  
Through Its Secretary, )  
General Administration Department, )  
Madam Kama Marg, Hutatma Rajguru )  
Chowk, Mantralaya, Mumbai-32. )
2. **The State of Maharashtra,** )  
Through Its Upper Secretary, )  
Home Ministry of Maharashtra, )  
09<sup>th</sup> Floor, New Administrative Building,)  
Opposite, Mantralaya, Mumbai-400032.)
3. **The Superintendent of Police,** )  
Hingoli, Tal. & Dist. Hingoli. )
4. **Samadeshk (Commander),** )  
State Reserve Police Force, Group No. 12,)  
Hingoli. )
5. **Superintendent Office,** )  
Special Police, Inspector General, )  
Nanded Division, Nanded. )

**... RESPONDENTS**

**APPEARANCE** : Shri R.I. Wakade, learned counsel for  
Applicant.

: Shri D.M. Hange, Presenting Officer for  
respondent authorities.

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**CORAM** : **Shri A.N. Karmarkar, Member (J)**  
**RESERVED ON** : **20.03.2025**  
**PRONOUNCED ON** : **17.04.2025**  
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**O R D E R**

1. By filing present Original Application, the applicant has prayed for quashing and setting aside impugned letter dated 13.05.2022 issued by respondent No. 4-Samadeshk (Commander), State Reserve Police Force, Group No. 12, Hingoli. He has also sought direction to respondents to include his name in the waiting list for the persons seeking appointment substituting his mother name.

2. The applicant's father Chandrakant Gyanoba Kamble was serving as Police Constable. He died on 10.08.2004 while in service. The mother of applicant viz. Sheetal Chandrakant Kamble moved applications to respondent No. 4 on 17.05.2012 and 12.09.2014 seeking compassionate appointment. At the time of death of father, the applicant was minor. Respondent No. 4 has communicated applicant's mother on 08.10.2014 that there are no vacant post and she will be appointed on compassionate ground as and when the post is created. The name of applicant's mother was also taken in the waiting list. Subsequently, the

mother of applicant sent letter to respondent No. 4 on 11.03.2022 intimating that she is suffering mentally and unable to join the services on compassionate ground. The age of her son was 19 years at that time. The date of birth of the applicant is 07.02.2003. The applicant's mother has requested vide letter dated 11.03.2022 to substitute her name by her son. The applicant has also submitted application on 11.03.2022 intimating about mental illness of his mother. The applicant has attained the age of majority on 07.02.2022. The mother of applicant has consented for appointment of applicant on compassionate ground. Respondent No. 4 has passed impugned order dated 13.05.2022 and communicated to the applicant that substitution is impermissible in view of G.R. dated 20.05.2015. According to the applicant, the Hon'ble High Court of Bombay, Bench at Aurangabad in a case of **Dnyaneshwar s/o Ramkishan Musane Vs. The State of Maharashtra and Ors. in W.P. No. 6267/2018**, has held that any name of one legal representative of deceased employee in the waiting list cannot be substituted, is unjustified.

3. Respondent Nos. 1 to 4 have filed their affidavit in reply (page No. 50 of paper book). They have admitted that the applicant's mother had submitted application for compassionate

appointment and her name was included in the waiting list. It is also admitted that since the applicant has attained the age of majority, the applicant and his mother submitted application to respondent No. 4 informing about illness of applicant's mother and for substitution of name of applicant's mother. According to these respondents, there is no provision in G.R. dated 20.05.2015 to substitute the name of candidate in the waiting list for appointment on compassionate ground. On this ground, the respondent No. 4 has rejected the applications of the applicant and his mother and it was accordingly communicated to the applicant and his mother. There is nothing in G.R. dated 20.05.2015 that name of candidate in the waiting list can be substituted in case of mental illness of that candidate.

4. The respondent No. 5 has filed his affidavit in reply. According to this respondent, the present applicant has concerned with the office of respondent No. 4 and the applicant has wrongly made this respondent No. 5 as party respondent. This respondent has no role in the present matter.

5. The applicant has filed affidavit in rejoinder. The applicant has stated that the respondent No. 5 has prepared the seniority list, which is at page No. 24 of paper book and

therefore, he is the necessary party. The applicant has denied the subsequent development. It is mentioned that during pendency of the present Original Application, the District Collector, Hingoli was pleased to direct the mother of applicant to remain present in the concerned office for document verification on 30.06.2023. So the mother of applicant made a written request on 07.08.2023 and 17.08.2023 for grant of appointment to her son on compassionate ground.

6. I have heard Shri R.I. Wakade, learned counsel for the applicant and Shri D.M. Hange, learned Presenting Officer for the respondent authorities. Both the sides have advanced their arguments as per their respective contentions.

7. Learned counsel for the applicant in support of his submissions has placed reliance on the judgment of Hon'ble High Court of Bombay, Bench at Aurangabad in a case of **Dnyaneshwar s/o Ramkishan Musane Vs. The State of Maharashtra and Ors. in W.P. No. 6267/2018** and 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. It is submitted that after

filing of the present Original Application, the applicant's mother received letter for attending the office to verify the documents. The applicant and his mother have communicated vide letter 28.08.2023 (Exhibit A-5) about filing of the present Original Application.

According to learned Presenting Officer, the applicant's mother was offered job. So the applicant is not entitled for compassionate appointment as claimed in the present Original Application. For that purpose learned Presenting Officer has placed reliance on the judgment of Hon'ble High Court of Bombay, Bench at Aurangabad in **W.P. No. 11821/2019 (Akshaykumar Balaji Kesgire Vs. The State of Maharashtra and Ors.)**.

8. It is undisputed fact that the father of applicant viz. Chandrakant Gyanoba Kamble, who was serving as Police Constable died on 10.08.2004 while in service. It is undisputed fact that Sheetal Chandrakant Kamble is the mother of the applicant. It is also undisputed fact that the name of mother of applicant was in the waiting list. The applicant has placed on record a copy of letter dated 11.05.2022 (Exhibit A-3) issued by the Special Inspector General of Police, Nanded intimating that name of the applicant's mother is at Sr. No. 4 in the waiting list

and her name will be considered for compassionate appointment as and when there is vacancy. It is not the case of respondents that the applicant's mother was offered job on compassionate ground till 2022. The applicant's mother has communicated to respondent No. 4 on 11.03.2022 that she has waited for compassionate appointment for a long period. She has also informed about her mental illness and she has prayed for substitution of her name and compassionate appointment may be given to her son. On the same day i.e. on 11.03.2022, the applicant has also forwarded application to respondent No. 4 for getting compassionate appointment in place of his mother on the ground of mental illness of his mother. It is not the case of respondents that they have communicated to the applicant or his mother about the conditions in the policy regarding compassionate appointment at any point of time, though it is expected from the respondents as per G.R. dated 20.05.2015.

9. The applicant was informed vide communicated 13.05.2022 that name in the waiting list cannot be substituted in view of the provisions of G.R. dated 20.05.2015 and so the claim of the applicant is rejected.

10. 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 in present matter also no job was offered to the applicant's mother, though the name of applicant's mother was on wait list.

11. 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), (iv) 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.

12. It appears from the document filed by the applicant along with his rejoinder affidavit that respondent-Residential Deputy Collector, Hingoli has informed the applicant's mother to attend the office of Collector, Hingoli on 28.08.2023 for document verification to verify the eligibility for getting compassionate appointment. Subsequent letter dated 14.08.2023 of Collector, Hingoli to Commander, SRPF Gut No. 12, Hingoli itself shows that the applicant's mother has intimated about filing of Original Application against the order of rejection of claim of the applicant.

13. Learned counsel for the applicant has placed on record a copy of letter dated 17.08.2023 sent by the applicant to the respondent- Collector, Hingoli intimating about filing of the present Original Application after rejection of application on 13.05.2022. So it is apparent that after passing of the impugned order, the respondents have tried to call the applicant's mother for document verification. It is clear that the respondents have

not taken steps to appoint the applicant's mother on compassionate ground for a long period of about 10 years.

14. Learned Presenting Officer in support of his submissions has placed reliance judgment in a case of **Akshaykumar Balaji Kesgire** (cites supra) In that matter, the claim of the applicant for compassionate appointment was rejected on the same ground of prohibiting change of name of applicant for compassionate appointment as per G.R. dated 20.05.2015. The petitioner in that matter had preferred Writ Petition No. 8285/2018 and when it came up for hearing on 23.07.2018, the petitioner therein made a statement that he would prosecute the application with the authority and the said writ petition was accordingly disposed of. So the petitioner in that matter has made fresh application dated 02.04.2019, which was rejected by letter dated 16.05.2019 referring to the earlier rejection letter dated 13.10.2016. So the petitioner in that matter has challenged the said subsequent order. In that matter the petitioner's mother was being offered compassionate appointment by respondent No. 2 in that matter and she voluntarily decided not to take up the same, for which no specific reason was assigned in her letter. But in the instant matter, the applicant's mother in her application dated 11.03.2022 has

specifically mentioned the reason that she is suffering from mental illness and she would not be in a position to do work. So the above citation referred by the learned Presenting Officer cannot be made applicable to the present case.

15. 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) Impugned letter dated 13.05.2022 issued by respondent No. 4-Samadeshk (Commander), State Reserve Police Force, Group No. 12, Hingoli is 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 : 17.04.2025**

**KPB S.B. O.A. No. 1144 of 2022 ANK Compassionate Appointment Substitution**