

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION No. 165 of 2023 (S.B.)**

Perna d/o Digambar Bansod,  
Age: 22 yrs, Occ- Education,  
R/o Plot No 160, Nazul Lay out Colony,  
Bezanbagh, Nagpur.

**Applicant.**

**Versus**

- 1) State of Maharashtra,  
through its Home Secretary Mantralaya,  
Madam Cama Road, Hutatma Rajguru Chowk,  
Nariman Point, Mumbai 400032.
- 2) State of Maharashtra,  
through its Transport Commissioner Officer,  
4<sup>th</sup> floor, Administrative Building N/o Ambedkar Garden,  
Govt. Colony, Bandra East, Mumbai.
- 3) State of Maharashtra,  
through its Regional Transport Officer (Rural),  
Kamptee Road, Nagpur.
- 4) State of Maharashtra,  
through its District Collector Nagpur,  
Civil Lines, Nagpur.

**Respondents.**

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**S/Shri Rajesh Ganghare, S.S. Meshram, Advs. for the applicant.**  
**Shri A.P. Potnis, learned P.O. for respondents.**

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

**Dated :- 03/09/2024.**

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**J U D G M E N T**

Heard Shri S.S. Meshram, learned counsel for the  
applicant and Shri A.P. Potnis, learned P.O. for the respondents.

2. Case of the applicant in short is as under –

The father of applicant namely Diganbar Shalikram Bansod was working as a Driver in the office of Regional Transport Office at Gondia. He was discharging his duties in the said office. He died on 04/11/2000 while he was in service with respondent no.2. After the death of father of applicant, her mother applied for appointment on compassionate ground. She was not provided any appointment by the respondents. Her name was removed from waiting seniority list for appointment on compassionate ground. Therefore, mother of applicant approached to the Hon'ble Bombay High Court, Bench at Nagpur by filing Writ Petition No.1619/2009. The said Writ Petition was dismissed on 02/07/2010 holding that the G.R. dated 23/04/2008 is very clear. As per the said G.R. after completion of age of 40/ 45 years the name of the candidate cannot be continued in waiting seniority list for appointment on compassionate ground.

3. The applicant is a daughter of deceased. She was minor at the time of death of her deceased father. After attaining the age of majority, the applicant applied for appointment on compassionate ground on 09/06/2016 (P-16). The name of applicant is not considered by the respondents on the ground that as per the G.Rs. dated 20/05/2015 and 21/09/2017, substitution is not provided. Hence, her

application is rejected and informed the applicant as per letter dated 05/10/2017.

4. The learned counsel for applicant has pointed out the Judgment of this Tribunal in O.A.No.613/2018 and the Judgment of the M.A.T., Principal Bench, Mumbai in O.A.No.79/2021. The learned counsel for applicant has also pointed out the Judgment of the Hon'ble Bombay High Court, Bench at Aurangabad in the case of ***Dnyaneshwar S/o Ramkishna Musane Vs. State of Maharashtra & Others*** and submitted that the unreasonable restriction imposed by the G.R. dated 20/05/2015 was directed to be deleted. But the Government of Maharashtra has not removed the unreasonable restriction imposed by the said G.R. The Hon'ble Bombay High Court, Bench at Aurangabad in the case of ***Dnyaneshwar S/o Ramkishna Musane Vs. State of Maharashtra & Others*** (cited supra) has passed the following order –

*"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."*

5. As per the Judgment of the Hon'ble Bombay High Court, Bench at Aurangabad in the case of ***Dnyaneshwar S/o Ramkishna Musane Vs. State of Maharashtra & Others*** (cited supra) the unreasonable restrictions imposed by the G.R. dated 20/05/2015 was directed to be deleted. The Hon'ble Bombay High Court has held that substitution is legal and proper. The said Judgment was considered by the Full Bench of Hon'ble Bombay High Court, Bench at Nagpur in W.P.No.3701/2022 with connected W.Ps., decided on 28/05/2024. The Full Bench of Hon'ble Bombay High Court, Bench at Nagpur has held that the **Musane's** Judgment is perfectly legal and correct.

6. The respondents have not provided any employment to the mother of applicant. Her name was removed after completion of 45 years of age as per the G.R. of 2017. She approached to the Hon'ble Bombay High Court, Bench at Nagpur by filing Writ Petition No.1619/2009. The Hon'ble High Court has not granted any relief

because the specific provision made in the G.R. of 2017 (2015) to remove the name after completion of 45 years of age. The applicant is the only daughter of deceased. She has applied after attaining the age of majority. She is informed by the respondents as per letter dated 05/10/2017 stating that substitution is not provided because the name of mother of applicant was already removed from the waiting seniority list. Now as per the Judgment of the Hon'ble Bombay High Court, Bench at Aurangabad in the case of ***Dnyaneshwar S/o Ramkishna Musane Vs. State of Maharashtra & Others*** (cited supra), substitution is provided and unreasonable restrictions are directed to be removed by the Government. But the State Government has not complied the direction of the Hon'ble Bombay High Court. Now the Full Bench of Hon'ble Bombay High Court, Bench at Nagpur in W.P.No.3701/2022 with connected W.Ps., decided on 28/05/2024 has confirmed the Judgment of the Hon'ble Bombay High Court, Bench at Aurangabad in the case of ***Dnyaneshwar S/o Ramkishna Musane Vs. State of Maharashtra & Others*** (cited supra). The applicant is entitled for substitution of her name. Hence, the respondents cannot deny the appointment on compassionate ground to the applicant. Therefore, following order is passed –

**ORDER**

(i) The O.A. is allowed.

(ii) The respondents are directed to enter the name of applicant in the waiting seniority list for appointment on compassionate ground.

(iii) The respondents are directed to provide employment to the applicant on compassionate ground as per the seniority list and as per rules.

(iv) No order as to costs.

**Dated** :- 03/09/2024.

**(Justice M.G. Giratkar)**  
**Vice Chairman.**

\*dnk.

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

Name of Steno : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 03/09/2024.