

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI**

**ORIGINAL APPLICATION NO.462 OF 2022**

**DISTRICT : AHMEDNAGAR**

**Sub.:- Compassionate Appointment**

- 1) Smt. Mangal Ramesh Khude )  
Age : 38 Yrs, Residing at At : Athwad, )  
Post : Chichondi-Patil, )  
Tal. Dist. Ahmednagar – 414 201. )
- 2) Shri Karan Ramesh Khude )  
Age : 19 Years, Residing at At : Athwad, )  
Post : Chichondi-Patil, )  
Tal. Dist. Ahmednagar – 414 201. )...**Applicants**

**Versus**

1. The State of Maharashtra. )  
Through Additional Chief Secretary, )  
Home Department, Mantralaya, )  
Mumbai – 400 032. )
2. The Commissioner of Police. )  
New Mumbai, Sector 10, )  
Opposite RBI, CBD Belapur, )  
New Mumbai – 400 614. )
3. The Director General of Police. )  
M.S, Mumbai, Maharashtra Police )  
Headquarter, Shahid Bhagat Singh )  
Marg, Colaba, Mumbai – 400 001. )...**Respondents**

**Smt. Punam Mahajan, Advocate for Applicants.**

**Smt. K.S. Gaikwad, Presenting Officer for Respondents.**

**CORAM : A.P. KURHEKAR, MEMBER-J**

**DATE : 27.04.2023**

**JUDGMENT**

1. The Applicant has challenged the communication dated 26.07.2021 issued by Respondent No.2 thereby rejecting his claim for compassionate appointment on the ground that name of his mother is already taken in waiting list and it cannot be substituted.

2. Shortly stated following are the admitted facts :-

- (i) Ramesh B. Khude [Husband of Applicant No.1 and father of Applicant No.2] was Police Constable on the establishment of Respondent No.3. Unfortunately, he died in harness on 23.07.2012.
- (ii) After the death of Government servant, Applicant No.1 Smt. Mangal [Widow of deceased Government servant] applied for compassionate appointment on 05.09.2012 on the post of Peon (Page No.21 of Paper Book).
- (iii) Then again, Applicant No.1 made an application on 01.04.2015 requesting for cancellation of his earlier application made for the post of Peon and requested to appoint her on the post of Clerk (Page No.25 of P.B.).
- (iv) Later again, Applicant No.1 made an application on 04.10.2016 stating that she is not keeping good health and requested to cancel her request for compassionate appointment to her and in her place, her son [Applicant No.2] who was that time 14 years' old be appointed on compassionate appointment on completion of 18 years' age (Page No.26 of P.B.).
- (v) Then again, Applicant No.1 made an application to appoint her son on the post of Police Constable on completion of 18 years' of age.

- (vi) Respondent No.3, however, by communication dated 26.07.2021 informed to Applicant No.1 that her name is already in waiting list for the post of Peon, and therefore, substitution is not permissible.

3. It is on the above background, the Applicant has challenged the communication dated 27.07.2021 in the present O.A. and prayed for direction to the Respondents to appoint Applicant No.2 on the post of Police Constable on compassionate ground.

4. The Respondents opposed the O.A. by filing Affidavit-in-reply *inter-alia* contending that the name of Applicant No.1 is still subsisting in the waiting list and during the subsistence of her name in the waiting list, the substitution is not permissible.

5. Notably, after filing of O.A, the Respondent No.3 had issued letter to Applicant No.1 on 21.04.2022 (Page No.93 of P.B.) informing that her name is at Serial No.4 in waiting list and asked her to remain present for verification of documents on 25.04.2022. The Applicant No.1, however, by letter dated 25.04.2022 expressed her inability to remain present on 25.04.2022 and stated that she would attend the Office on or after 05.05.2022. However, she failed to appear on 05.05.2022. The Respondent No.3 again by his letter dated 10.06.2022 asked Applicant No.1 to remain present for verification of documents on 15.06.2022. In response to it, the Applicant informed to Respondent No.3 that she had already filed O.A. (this O.A.) before the Tribunal and the decision is awaited.

5. Now question posed for consideration is whether in the facts and circumstances of the present case, when the name of Applicant No.1 is still in waiting list, whether substitution is permissible as prayed for.

6. When Tribunal raised specific query to the learned Advocate for the Applicant as to how substitution is permissible and if there is any such judicial decision or Government policy to that effect, she fairly stated that there is no such decision or Government policy to substantiate her claim. All that, she stated that the Tribunal has rendered various decisions in which substitution was allowed in the circumstances where name of mother is deleted from the waiting list after attaining the age of 45 years. As such, it is only in a case where name of widow is deleted from waiting list after attaining the age of 45 years, in that situation, the Tribunal allowed the substitution. However, in the present case, the name of Applicant No.1 is still subsisting in the waiting list. Thus, it is not a case of substitution of heir after deleting the name of mother or other heir on attaining the age of 45 years. Where name is deleted from the waiting list on account of age bar for no fault on the part of heir, the substitution was allowed on the premises that where name is taken in the waiting list and continued years together without taking immediate steps for providing compassionate appointment, then deleting the name from waiting list would amount to denial of compassionate appointment.

7. Whereas in the present case, the situation is totally different. The name of Applicant No.1 who is at present 38/39 years old is still in waiting list. The facts narrated above clearly demonstrate that Applicant No.1 is not at all interested in joining the post on compassionate appointment though it was offered to her which clearly indicates that there might not be any such economic distress, otherwise she would not have declined the offer made to her time and again. Indeed, now the period of more than 12 years from the death of Government servant is over. In such situation, she cannot be allowed to dictate her terms to the Respondents. Needless to mention, the object of compassionate appointment is to provide financial assistance to the distressed family on account of death of sole earning member. If the name of Applicant No.2 is enrolled, it will again take years together to reach his name in waiting list for compassionate appointment and this would frustrate the aim and

object of the scheme. As such, looking from this angle also, the substitution cannot be entertained.

8. Thus, since the name of Applicant No.1 is already in waiting list and appointment is offered to her, if such request is allowed, it would result in anomalous situation and whole object of the scheme for compassionate appointment would be frustrated. Needless to mention that compassionate appointment is not right much less legally enforceable right, but it is by way of concession to the family of the deceased and such claim must be in consonance with the scheme. In scheme of compassionate appointment, there is no such provision for substitution of name during the subsistence of the name of heir in the waiting list. As per scheme, it is only in a case of death of person whose name is waiting list, substitution is permissible.

9. The totality of aforesaid discussion leads me to sum-up that the challenge to the impugned communication dated 26.07.2021 is devoid of merit and O.A. liable to be dismissed. Hence, the order.

### **ORDER**

The Original Application stands dismissed with no order as to costs.

Sd/-  
**(A.P. KURHEKAR)**  
**Member-J**

Mumbai  
Date : 27.04.2023  
Dictation taken by :  
S.K. Wamanse.

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