

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR

ORIGINAL APPLICATION NO.121/2024 (S.B.)

Amit S/o. Gajanan Thorat,
Aged about 18 years, Occ.: Student,
R/o. C/o. Ramesh Waman Bangre,
Near Buddha Vihar, Chikhli Road, Washim.

... **APPLICANT**

// V E R S U S //

- 1] The State of Maharashtra,
Through its Secretary,
Department of Home,
Mantralaya, Mumbai-400 032.
- 2] Special Inspector General of Police,
Amravati, Division Amravati.
- 3] Superintendent of Police, Washim,
District Washim.

... **RESPONDENTS**

Shri S.D. Chande, Ld. Counsel for the Applicant.

Smt S.R. Khobragade, Ld. P.O. for the Respondents.

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

Dated :- 09/01/2025.

J U D G M E N T

Heard S.D. Chande, learned counsel for the applicant and Smt S.R. Khobragade, learned P.O. for the respondents.

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

Father of applicant was appointed in the Police Department as a Constable. The Father of applicant was in service, but due to cancer, father of the applicant was died on 03/02/2018. The mother of applicant made an application on 09/03/2018 and prayed for appointment on compassionate ground on the ground that her husband was died on 03/02/2018 while discharging his duty in the Police Station at Washim. The respondents have rejected the application of the mother of applicant as per order dated 08/02/2022. The mother of applicant prayed for appointment on compassionate ground for her son i.e. applicant but respondents have rejected the same on the ground that as per G.R. dated 20/05/2015 substitution is not permissible. Hence, applicant approached to this Tribunal for the following reliefs:-

“9a) Quash and set aside the impugned order dated 08.02.2022 issued by the respondent no.3-Superintendent of Police, Washim;

b) Direct the respondent no.3 - Superintendent of Police, Washim to place the name of applicant in place of his mother and grant the compassionate appointment to the applicant as per his qualification as early as possible;

b) direct the respondent no. 3 to keep one post vacant as suitable to the applicant at Washim district during the pendency of the present application."

3. Respondents have filed reply and strongly objected the prayer of the applicant. It is submitted that as per G.R. dated 20/05/2015, substitution is not permissible. Hence, the O.A. is liable to be dismissed.

4. Learned counsel for applicant, has pointed out order dated 08/02/2022. The material part of the order is reproduced below:-

“परंतु शासन निर्णय क्रमांक अकंपा 1217/प्र.क. 102/आठ दिनांक 21 सप्टेंबर 2017 मधील 3 (21) अन्वये कर्मचा-याच्या मृत्यूनंतर त्यांच्या पात्र कुटुंबीयांवे नाव अनुकंपाधारकांच्या प्रतिकासूचीमध्ये घेतल्यानंतर त्यांच्याऐवजी अन्य पात्र वारसदारांचे नांव प्रतिकासूचीमध्ये घेतले जात नाही. म्हणजेच प्रतिकासूचीमध्ये नाव बदलण्याची तरतूद सध्याच्या धोरणात नसल्याने आपण आपल्या मुलाला अनुकंपा तत्वावर नोकरीवर घेण्याबाबत केलेली विनंती "अमान्य" करण्यात येत आहे.”

5. From the perusal of the above order, it appears that substitution is not allowed by replacing the name of applicant in place of his mother, on the ground that substitution is not permissible as per the G.R. The mother of applicant was called for interview but her height was less and therefore she was not selected. It is pertinent to note that the mother of applicant applied for appointment on compassionate ground. The respondents should have provided other suitable employment to the applicant. The respondents have not provided any employment to her and also rejected her claim for appointment of her son i.e. applicant on the ground that G.R. dated 20/05/2015 does not permit the same.

6. The Hon'ble Bombay High Court at Aurangabad in the case of *Dnyaneshwar s/o Ramkishan Musane VS State of Maharashtra & Ors. Reported in 2020(5) Mh.L.J. 381*, has given direction to the Government of Maharashtra to delete the unreasonable restriction issued by the Government of Maharashtra as per G.R. dated 20/05/2015. The material part of 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*) is reproduced below –

“ **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.”

7. The said Judgment was considered by the Full Bench of Hon'ble Bombay High Court, Bench at Nagpur in the case of ***Kalpana 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. As per the Judgment of Full Bench of Hon'ble Bombay High Court, Bench at Nagpur, the direction given by 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)*** is perfectly legal and correct. Hence, in view of the Judgment in the case of ***Kalpana Taram (cited supra)*** and the Judgment in the case of ***Dnyaneshwar Musane (cited supra)***, the substitution is permissible. Hence, the following order:-

ORDER

- (i) O.A. is allowed.
- (ii) The Respondents are directed to enter / substitute the name of Applicant in the waiting seniority list

for appointment on compassionate ground and provides the employment as per Rules.

(iii) No order as to costs.

(Justice M.G.Giratkar)
Vice Chairman.

Dated :-09/01/2025.

PRM.

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

Name of Steno : Piyush R. Mahajan.

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 09/01/2025.