

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH, NAGPUR.**

**WRIT PETITION NO.5750 OF 2022**

Chaitali Wd/o. Gopal Garade & Anr. -Vs.- The State of Maharashtra & Anr.

Office notes, Office Memoranda of  
 Coram, appearances, Court's orders  
 or directions and Registrar's orders.

Court's or Judge's Orders.

Mr P. S. Kshirsagar, Advocate for the petitioners  
 Ms K. S. Joshi AGP for the respondent No.1/State

**CORAM : SUNIL B. SHUKRE AND**  
**G. A. SANAP, JJ.**

**DATED : 19.09.2022**

Heard Mr P. S. Kshirsagar, learned counsel for the  
 petitioner and Ms K. S. Joshi, learned AGP for respondent  
 No.1.

2] Judgment of *Dnyaneshwar S/o. Ramkishan Musane .v/s. The State of Maharashtra and ors, Writ Petition No. 6267 of 2018, decided on 11.03.2020*, has been relied upon, which takes a view that prohibition imposed by Government Resolution dated 20.05.2015 that name of any legal representative of deceased employee can not be substituted by any another legal representative, seeking appointment on compassionate ground, is arbitrary, irrational and unreasonable. However, this judgment interprets Government Resolution dated 20.05.2015 and therefore, it would have no application to the Government Resolutions issued subsequently.

3] In the present case, name of the petitioner No.2 has been refused to be substituted in place of petitioner No.1 in the waiting list made for making appointments on compassionate basis on the ground that there is no provision made for such substitution in the subsequent Government Resolution dated 21.09.2017. Compassionate appointment, it is settled law, can be made only as per the policy and that it confers no right or privilege upon the persons seeking such an appointment. Its object is to enable the bereaved family, which finds itself in financial crisis after sudden and untimely demise of the sole bread winner of the family to get over the financial crisis. Therefore, by their very nature, such appointments are provided only as bringing immediate succor to the bereaved family. That means, if considerable period of time elapses since the demise of the bread earner, the law presumes that the dire financial need of the family has faded away gradually and as time passes by, it is removed completely, unless shown otherwise. Besides, as stated earlier, providing of compassionate appointment being a matter of policy, this Court cannot grant any relief to the petitioner, who is not there in the original policy.

4] In the present case, reliance has been placed upon Government Resolution dated 21.09.2017, which does not contain any provision for allowing applications made for substituting the names of the persons already included in the waiting list of compassionate appointments. If this is so, it would not be permissible for this Court to interfere with

the policy, inasmuch as, such policy cannot be seen to be arbitrary or illegal, rather it has to be upheld as consistent with the object of compassionate appointment. After all issue of compassionate appointment cannot be kept pending for long period of time and in any case, it is not something which comes to the legal heirs automatically by way of succession to the post held by deceased's family member. It must also be remembered that any compassionate appointment stands as an exception to the rule of equality and open competition incorporated under Articles 14 and 16 of the Constitution of India and therefore, if any compassionate appointment is to be made, special circumstances to justify the same must exist. These special circumstances are in the nature of financial difficulties faced by the family and as stated earlier, passage of time lessens or removes those difficulties, unless shown otherwise.

5] In the present case, the husband of the petitioner No.1 died in the year 2017 and with the passage of about 4-5 years of time, the dire financial need of the family now has been considerably reduced, thereby weakening the case of the petitioners. For all these reasons this petition cannot be allowed.

6] Considering the settled legal position governing the rule of compassionate appointment, we would urge the State Government to think of stipulating validity period for the waiting list that is prepared for making compassionate

appointments and the validity period may be of about 2-3 years. A provision can also be incorporated in the policy that after expiry of 2-3 years of period from the date of the application, the applicant whose name is included in the waiting list shall not be eligible to be considered for compassionate appointment and his/her name shall stand removed immediately on expiry of such period.

The writ petition is therefore summarily **dismissed**.  
No order as to costs.

(G. A. SANAP, J.)

(SUNIL B. SHUKRE, J.)

Namrata