



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 1805 OF 2022

**PREMNATH RAJKUMAR ALIAS RAJABHAU PARIT
VERSUS
THE STATE OF MAHARASHTRA OTHERS**

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Advocate for the Petitioner : Mr. Irfan D. Maniyar
AGP for Respondent No. 1 : Mr. N.S.Tekale
Advocate for Respondent Nos. 2 and 3 : Mr. S.R.Yadav-Lonikar

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**CORAM : S. G. MEHARE AND
SHAILESH P. BRAHME, JJ.**

DATE : 4th DECEMBER 2024

PER COURT :

. Heard both the sides finally at the admission stage.

2. Petitioner is challenging rejection of his application for appointment on compassionate ground. His father was Assistant teacher working with the respondent no. 2/Zilla Parishad, Parbhani who passed away on 28.12.2004. The petitioner's sister Tejswini submitted application on 22.01.2014 for appointment on compassionate ground. His sister was indisposed in the year 2020. It was intimated to the respondents and a request was made to substitute the petitioner at her place. By impugned order the request is rejected.

3. The petitioners application was rejected relying on Government Resolution dated 20.05.2015. Learned Counsel for the petitioner tenders on record the larger Bench decision in the matter of **Kalpana Wd/o Vilas Taram and Another v/s. The State of Maharashtra and others** in Writ Petition No. 3701/2022 with connected matters.

4. Following are the answers to issues before the Reference Court :

Sr.No.	Questions	Answer
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), Nillima Raju Khapekar (supra) and Debarata Tiwari (supra) whether the view taken in Dnyaneshwar Musane and other similar matters as indicated above would be correct?	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), Nillima Raju Khapekar (supra) and Debarata Tiwari (supra)
ii	Whether the policies of the State, which provide for creating a wait list of the candidates for compassionate appointment and in cases permits substitution, even on account of crossing a particular age limit of 45 years is contrary to the object and purpose for which a compassionate appointment has to be granted ?	a) Maintaining a wait list of the candidates for compassionate appointment is not contrary to the object and purpose for which a compassionate appointment has to be granted. b) Seeking substitution of the name of another member in place of a member who has applied, on account of crossing the age limit of 45 years is not contrary to the object and purpose for which compassionate appointment must be granted.

5. Though the issue before the Reference Court was

pertaining to substitution on account of crossing of particular age limit, the purport was the substitution. In the case at hand, the substitution sought by the petitioner is for just and reasonable ground.

6. Learned Counsel Mr. Lonikar appearing for respondent nos.2 and 3 makes a statement that in view of a larger bench judgment Kalpana Wd/o Vilas Taram and Another (supra), the respondent no.3/Authority would consider the request for substitution.

ORDER

I) The Writ Petition is allowed partly.

II) The letter dated 30.11.2021 issued by the Respondent No.3/Zilla Parishad is quashed and set aside.

III) The Respondent No. 3/Zilla Parishad shall consider the application of the petitioner and take further steps as per the policy. But it shall not be rejected on the same ground on which impugned letter was issued.

IV) Respondent No.3/Zilla Parishad shall take a decision within four weeks.

[SHAILESH P. BRAHME, J.]

[S. G. MEHARE, J.]

VS.J.