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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.11994 OF 2022**

The State of Maharashtra & Anr. ...Petitioners
Vs.
Akshay Dattatraya Nagane ...Respondent

**WITH
WRIT PETITION NO.13882 OF 2023**

The State of Maharashtra ...Petitioner
Vs.
Prashant Ambadas Gangarde ...Respondent

...

Mrs. R. A. Salunkhe, AGP for Petitioner-State in WP/11994/2022
Mr. B. V. Samant, Addl. GP with Mr. S. P Kamble, AGP for Petitioner-State in WP/13882/2023.
Mr. Rajesh M. Kolge, Advocate for Respondents in both petitions.

...

**CORAM: A.S. CHANDURKAR &
RAJESH S. PATIL, JJ.**

DATE: 23rd July, 2024

P.C.:-

1] Since both these writ petitions raise challenge to orders passed by the Maharashtra Administrative Tribunal in somewhat similar circumstances, namely, consideration of the prayer for grant of compassionate appointment, they are being decided by this common order.

2] The respondents in both the writ petitions seek appointment on

compassionate ground consequent upon demise of their respective father's in harness. In Writ Petition No.11994 of 2022, the name of the mother of the respondent was shown in the waiting list of applicants seeking compassionate appointment. However, as she completed the age of forty five years, her name was deleted from the waiting list. The Tribunal by its judgment dated 27/08/2021 while allowing Original Application No.52 of 2021 directed the petitioners to consider the application made by the respondent for appointment on compassionate ground on its merits.

3] In Writ Petition No.13882 of 2023, the name of the mother of the respondent was removed from the waiting list on the ground that she had attained the age of forty years. Original Application No.347 of 2019 was allowed by the Tribunal on 02/07/2020 and the petitioners were directed to consider the name of the respondent for compassionate appointment on its merits.

4] We find that the issue with regard to permissibility of substitution of the name of the son/daughter upon the applicant in the waiting list attaining the age of forty/forty five years has been considered by the Full Bench in Writ Petition No.3701/2022 (*Kalpana Wd/o Vilas Taram & another vs. The State of Maharashtra and others*) with connected writ petitions decided at the Nagpur Bench on 28/05/2024. It has been held therein that substitution of the name of a family member on account of the earlier family member crossing the age limit prescribed was permissible and that the same was not contrary to the object and

purpose for which compassionate appointment must be granted. The Tribunal by relying upon the decision in *Dnayneshwar S/o. Ramkishan Musane vs. State of Maharashtra and others*, **2020 (5) Mh.L.J.381** has directed consideration of applications for grant of compassionate appointment on their own merits. The Full Bench in its decision has approved the view taken in *Dnayneshwar S/o. Ramkishan Musane* (supra).

5] In that view of the matter, we find that there is no reason to interfere with the order passed by the Tribunal in both the Original Applications. Suffice it to observe that the petitioners shall consider the respective applications in accordance with law and also keep in mind the observations in para 44 of the judgment in *Kalpana Taram* (supra). The petitioners to act expeditiously in the matter.

6] The Writ Petitions are dismissed with no order as to costs.

[RAJESH S. PATIL, J.]

[A.S. CHANDURKAR, J.]