



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

WRIT PETITION NO. 2337 OF 2022

1. Shailaja Ashruba Khandagale,
Age 39 years, Occu. Business,
R/o. Rameshwar, Taluka Bhoom,
District Osmanabad
2. Snehal Ashruba Khandagale,
Age 20 years, Occu. Education,
R/o. Rameshwar, Taluka Bhoom,
District Osmanabad .. Petitioners

Versus

1. The State of Maharashtra
Through The Principal Secretary,
Rural Development Department,
Mantralaya, Mumbai
2. The Chief Executive Officer,
Zilla Parishad, Osmanabad .. Respondents

Mr. Vikram S. Undre, Advocate for the Petitioners;
Mr. A. S. Shinde, AGP for Respondent No.1;
Ms. Ashwini Advant, Advocate holding for Mr. Pradeep V. Tapse
Patil, Advocate for Respondent No.2

**CORAM : S. G. MEHARE &
SANDIPKUMAR C. MORE, JJ.**

DATE : 19-03-2025

PER COURT:-

1. Rule. Rule made returnable forthwith. Heard finally with
consent of the learned counsel for the parties at the admission
stage.

2. The petitioners have a case that after the death of husband, petitioner No.1 applied for compassionate appointment. In pursuance to her application, she was enlisted in the list of the compassionate aspirants. However, she was not offered employment. In the meantime, her daughter/petitioner No.2 - Kum. Snehal attained majority. Therefore, she had applied to the Chief Executive Officer, Zilla Parishad, Osmanabad/respondent No.2 for substituting the name of her daughter/petitioner No.2 in her place.

3. Respondent No.2, by impugned order bearing No. ZPO/Sopravi/Ne-4/Akampa/Kavi/2445/2021 dated 15.12.2021, rejected her prayer.

4. The issue involved in the matter which is covered in the case of ***Kalpana wd/o. Vilas Taram and another vs. State of Maharashtra and others, 2024(4) Mh.L.J. (F.B.) 312***. The Co-ordinate Bench of this Court has also taken a view that in case the employment has not been offered to the legal heir of the deceased and if any minor attains majority, substitution is permissible.

5. The learned counsel for the petitioners has placed reliance on the judgment in ***Gopal s/o. Dayanand Ghate vvs. State of Maharashtra and another, Writ Petition No.439 of 2020, dated 20.10.2021***, to which one of us, Shri. S. G. Mehare, J. was a Member.

6. The learned A.G.P. for respondent No.1 would submit that in absence of any offer of employment, if the aspirant on the wait list, and any member of the family attains the majority, such substitution may be considered.

7. The learned counsel for respondent No.2 has strongly opposed the petition. She would submit that in view of the Government Resolution dated 20.05.2020, no such right was available for substitution of the name of legal heir after longer time. She referred to the affidavit-in-reply and prayed to dismiss the petition.

8. Admittedly, the wife of the deceased who was on the wait list was never offered a job. When she was on wait list, the daughter attained majority and she has completed D.Ed. Her substitution in place of name of petitioner No.1 was requested. However, respondent No.2 by impugned order rejected it.

9. The Full Bench in **Kalpana** (supra) referring to the Government Resolution dated 21.09.2017, laid down the law that if a family member of deceased/incapacitated employee applies for substitution of his name with another family member, it cannot be treated as a fresh application or subsequent application or it cannot be implied that more than one member is seeking compassionate appointment. Substitution would not defeat object of compassionate appointment.

10. The Co-ordinate Bench in **Gopal** (supra) referring the Government Resolution dated 21.09.2017 held that his substitution is not barred.

11. The issue involved in this case has already been settled by judicial pronouncement supra. The judgment of Full Bench binds us. Hence, we pass following order:-

ORDER

- (i) The writ petition is partly allowed.
- (ii) The impugned order dated 15.12.2021 of respondent No.2 stands quashed and set aside.
- (iii) Respondent No.2 is directed to enlist petitioner No.2 / daughter, namely, Kum. Snehal d/o. Ashruba Khandagale, in the list of eligible candidates for compassionate appointment.
- (iv) Rule made partly absolute in above terms.
- (v) No order as to costs.

[SANDIPKUMAR C. MORE]
JUDGE

[S. G. MEHARE]
JUDGE