



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

WRIT PETITION NO.1460 OF 2021

VISHAL KAMLAKAR DAHIWAL

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for the Petitioner : Mr. Jaiswal Abhishek Kamalkishor
AGP for Respondents: Mr. S.J. Salgare
Advocate for Respondents No.2 and 3 : Mr. S.R. Bagal
...

**CORAM : KISHORE C. SANT AND
ABASAHEB D. SHINDE, JJ.**

DATE : 18.11.2025

PER COURT:

1. Heard the learned advocates for the respective parties.
2. Rule. Rule is made returnable forthwith. By consent of the parties the matter is heard finally at the stage of admission. Though the appearance of learned advocate Mr. S.R. Bagal is discharged, since respondents No.2 and 3 have not made any alternative arrangement, we requested the learned advocate Mr. Bagal to assist this Court, which he graciously accepted.
3. A short question that arises in the present petition is whether, in the list of candidates to be appointed on compassionate grounds, whether the name can substituted by any other member of the family.

4. In the present case, the petitioner lost his father who was working with Zilla Parishad, Parbhani as a peon with respondent No.3, which falls under Respondent No.2. The petitioner's mother, applied on 29.02.2012 for an appointment on compassionate ground as the petitioner was a minor at that time. However, till now no appointment is made. The petitioner, therefore, filed application on 01.09.2017 to substitute his name in place of his mother in the list of candidates to be appointed on compassionate ground maintained by the respondents. The mother also filed an application on 04.09.2017 giving no objection to include name of the petitioner in her place. She also gave consent letter on 16.11.2014. However, said request came to be rejected on the ground that there is no such policy of replacing the name of a person though, from the same family.

5. The learned advocate for the petitioner relies on the judgment of the Division Bench of this Court in Writ Petition No.6267/2018, wherein, this Court held that the restriction imposed by Government Resolution dated 20.05.2015, putting a restriction that no name of any other legal representative of the deceased employee be substituted is unreasonable.

6. The learned advocate also relies upon a Full Bench judgment of this Court at Nagpur in a batch of writ petitions along with Writ Petition No.3701/2022. The Full Bench held that a condition putting

restriction upon substitution of the name of a person from the family of the deceased employee is illegal. This judgment was given in a reference made to the full bench in view of diversion of opinions in the judgments.

Specific two questions were framed which read as follows :

- (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), Nilima Raju Khapekar (supra) and Debabrata Tiwari (supra), whether the view taken in Dnyaneshwar Musane (supra) and in other similar matters as indicated above would be correct?*
- (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 compassionate apportionment has to be granted?*

7. The Full Bench answered that no such restriction can be imposed.

8. The learned advocate Mr. Bagal, fairly accepts the legal position of law as given in the Full Bench judgment. The learned AGP also does not dispute the legal position.

9. Considering all above facts and the ratio of the judgment in Writ Petition No.3701/2022 with companion writ petitions this Court finds that the petition needs to be allowed. The petition is, therefore, allowed in terms of prayer clauses 'C' and 'D'.

10. The seniority of the petitioner be counted from the date on which he filed an application.

11. We appreciate the assistance rendered by learned advocate Mr. Bagal at the request of this Court.

12. Rule is thus made absolute.

(ABASAHEB D. SHINDE, J.)

(KISHORE C. SANT, J.)

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