

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 13699 OF 2025

Pravin Pandurang Darekar.
Aged 40 Yrs, Occ. Unemployed,
R/o. Tammana C.H.S., 9th Floor,
Yashodhan Nagar [Lokmanya Nagar],
Pada No. 2, Thane [W].
V/s.

... Petitioner.

The Superintending Engineer,
Maharashtra Jeevan Pradhikaran Pune,
Having Office at next to Annapurna
Canteen, Central Building, First Floor,
Pune-1.

... Respondents.

Mr. Gaurav Bandiwadekar a/w. Mr. Bhushan Bandiwadekar a/w. Ms. Gayatri Bandiwadekar, Advocate for Petitioner.
Mr. Ajit Ram Pitale (through V.C.) a/w. Ms. Ameya Abhay Pitale & Mr. Siddharth Ajit Pitale, Advocate for Respondent-MJP.

CORAM : RAVINDRA V. GHUGE AND
ASHWIN D. BHOBE, JJ.
DATE : 20th NOVEMBER, 2025

JUDGMENT (*Per Ravindra V Ghuge, J*)

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.
2. The sequence of events are as follows :

- (a) The Petitioner's father Pandurang Darekar, was recruited as a driver, in the Class-III post of the Respondent establishment. He was a permanent employee. In 1996, he suffered a paralytic attack.
- (b) The Petitioner's mother made an application for compassionate appointment, on 01.8.1998. Her name was enrolled in the waiting list of eligible candidates, on 27th December, 1998.
- (c) On 10/11/2001, the Petitioner's father passed away, purportedly, prior to attaining the age of superannuation.
- (d) By communication dated 31.12.2008, the Assistant Superintending Engineer, Kolhapur Circle, Kolhapur, informed the Petitioner's mother that her name was at Serial No. 4.
- (e) The Petitioner's mother who had applied for compassionate appointment, is born on 01/6/1965.
- (f) On 16/7/2025, the Petitioner, whose date of birth as per his birth certificate is 26th October, 1985, moved an application on 16/7/2025, at the age of 40 years, seeking substitution in place of his mother. On 08.8.2025, the application was rejected.

3. The substitution of the name of a legal heir in place of the widow, who has crossed the age bar of 45 years, is permissible in the light of the law laid down by this Court at the Aurangabad Bench in

Dnyaneshwar s/o. Ramkishan Musane v/s. The State of Maharashtra 2020 (5) Mh. L.J. 381. Moreover, the Full Bench of this Court has delivered a Judgment in *Smt. Kalpana wd/o Vilas Taram & Anr. v/s. State of Maharashtra & Ors. (2024 (4) Mh. L. J. (F.B) 312* (“*Kalpana Taram*”), upholding the right of substitution. As such, the name of the Petitioner, being a son of the deceased, can replace his mother’s name in the waiting list of eligible candidates for compassionate appointment.

4. In so far as the direction to the Respondent to consider the Petitioner’s case who has already crossed 40 years of age, for compassionate appointment, we do not find it appropriate to issue such a direction after 19 years of the passing of the Petitioner’s father on 10/11/2001, notwithstanding that the eligible age is 45 years, in view of the Hon’ble Supreme Court Judgment in *State of West Bengal v/s. Debabrata Tiwari (2023 LiveLaw (SC) 175), (2025) 5 SCC 712.*

5. In view of the above, this **Petition is partly allowed** only to the extent of quashing the impugned order. The Petitioner’s name, for the records, can be substituted in place of his mother. In so far as the prayer for a direction to issue a compassionate appointment order to the Petitioner after 19 years of the passing of his father, when he has already

married, he has children and he is in private employment, cannot be granted. We having nothing to say if the department desires to consider his case.

6. Rule is made partly absolute in the above terms.

7. The learned Advocate for the Respondent-MJP, is at liberty to file his vakalatnama.

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)