



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH : NAGPUR.**

WRIT PETITION NO. 2845 of 2023

1. Smt. Aruna Wd/o Gajanan Pawankar,
aged about 45 years, and

2. Ku. Yuthika d/o Gajanan Pawankar,
aged about 23 years.

.. Petitioners

versus

The State of Maharashtra through its
Secretary, Urban Development Department,
Mantralaya, Mumbai-400 032 and
others.

.. Respondents

Mr. G. D. Asole, Advocate for petitioners.

Ms Kalyani P Marpakwar, Assistant Government Pleader for respondent nos. 1 and 2.

Mr. Shivam Mulik, Advocate h/f Mrs. R. G. Bajaj, Advocate for respondent no. 3.

CORAM :- ANIL S. KILOR AND MRS. VRUSHALI V. JOSHI, JJ.

DATE :- 12th AUGUST, 2025

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Heard learned counsel appearing for the parties.

2. The petitioner nos. 1 and 2 are mother and daughter respectively. The husband of the petitioner no.1 died while working in service as 'Assistant Teacher' in Nagar Parishad High School, Saoner.

3. Thereupon the petitioner no.1 applied for appointment on compassionate ground, which was considered by the respondents and her name was included in the waiting list at Serial No.40. Thereafter, the petitioner no.1 diagnosed with 'Diabetes and Heart' diseases and since she was not medically fit to accept the government job on health ground, her elder daughter, i.e. petitioner no.2, requested the respondent nos. 2 and 3 to include her name in the waiting list in place of her mother's name for appointment on compassionate ground.

4. The respondent no.3 on 29.03.2023 removed the name of the petitioner no.1 from the waiting list as she attained the age of 45 years. Said action of the respondent no.3 is under challenge in this writ petition.

5. The Full Bench of this Court in **Writ Petition No.3701 of 22** (*Kalpana wd/o Vilas Taram and another vs. The State of Maharashtra and others*) with connected Writ Petitions, decided on 28.05.2024, while answering the question '*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 ?*' has categorically observed that 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 the compassionate appointment must be granted.

6. In view of the findings recorded by the Full Bench of this Court in *Kalpana Vilas Taram* (supra), that substitution of the name of another family member in place of a member who has applied for compassionate appointment, is permissible and it is not contrary to the object of granting appointment on compassionate ground.

7. In that view of the matter, we are of the opinion that though the deletion of the name of the petitioner no.1 on account of attaining the age limit of 45 years is just and proper, denial to substitute the name of the petitioner no.2 in place of the petitioner no.1 is contrary to law since it frustrates the very object and purpose of granting the appointment on compassionate basis.

8. Accordingly, we pass the following order:

- (i) Writ Petition is allowed in terms of prayer clause (2).
- (ii) We direct the respondent no.3 to include the name of the petitioner

no.2 in the waiting list maintained for appointment on compassionate ground.

No order as to costs.

(MRS. VRUSHALI V. JOSHI, J.)

(ANIL S. KILOR, J.)

Andurkar.