



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 6995/2023

Jayashri w/o. Surendra More and Anr.

Vs.

The State of Maharashtra and Ors.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Ms. A. N. Pedgaonkar and Ms. Pooja Dongre, Advocate for
Petitioners.

Mr. H. D. Marathe, A.G.P. for Respondent Nos.1 and 2/State.

Mr. A. S. Dhore, Advocate for Respondent No.4.

CORAM : NITIN W. SAMBRE AND
MRS.VRUSHALI V. JOSHI, JJ.

DATED : 27/03/2025.

1. Heard.

2. The petition stands disposed of.

3. The petitioner No.1 is the widow of deceased
Surendra, who was in the employment of respondent No.4.
Pursuant to the claim for compassionate appointment, her
candidature was kept on wait list.

4. It is the case of the petitioner No.1 that she
incurred incapacitation for employment on compassionate
ground in view of her adverse condition and as such, she is
having reached the age of 45 years, intends to give up her
claim in favour of the petitioner No.2, her son.

5. *Drawing support from the judgment in the
matter of Dnyaneshwar s/o. Ramkishan Musane Vs. The
State of Maharashtra and Ors. [Writ Petition
No.6267/2018] decided on 11.03.2020 and the Full Bench
judgment in the matter of Kalpana wd/o. Vilas Taram and
Anr. Vs. The State of Maharashtra and Ors. [Writ Petition*

No.3701/2022], it is claimed that there is no embargo on the right of the petitioner No.1 to claim substitution.

6. As against above, the learned Counsel for the respondent No.4 has disputed the claim as according to him, the substitution can be permissible only in case of the petitioner having incurred bar pursuant to crossing the age of 45 years. As such, she has claimed that only after crossing the age of 45 years, petitioner No.1 can claim substitution.

7. We have considered the submissions.

8. In view of the judgment of Full Bench in the matter of **Kalpana Taram** (*cited supra*), the learned Counsel for the petitioner has rightly claimed that the substitution is permissible, however, such claim can be considered only after the petitioner No.1 crosses the age of 45 years. In such an eventuality, we deem it appropriate to partly allow the petition thereby directing the respondent Nos.2 and 3 to consider the claim of the petitioner No.1 for substitution of her candidature to that of the petitioner No.2 the moment she crosses the age of 45 years.

9. Needless to clarify that the waiting list of the petitioner No.1 shall not be disturbed just because she is seeking substitution.

(MRS. VRUSHALI V. JOSHI, J.) (NITIN W. SAMBRE, J.)