



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

WRIT PETITION NO. 6092 OF 2024
Taru Mahendrakumar Baladhare and another
Vs.

State of Maharashtra, through its Secretary, Rural Development and
Panchyat Raj Department and others

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Ms. Payal Kaware, Advocate for Petitioners
Mr. P.P. Pendke, AGP for Respondent Nos.1 and 2
Mrs. B.P. Maldhure, Advocate for Respondent Nos.3 and 4

CORAM: AVINASH G. GHAROTE AND
ABHAY J. MANTRI, JJ.

DATED : 14th JANUARY, 2025

1. Heard Ms. Kaware, learned counsel for the petitioners, Mr. Pendke, learned Assistant Government Pleader for the respondent Nos.1 and 2 / State and Mrs. Maldhure, learned counsel for the respondent No. 3 and 4.

2. The petition questions the communication dated 9.9.2024 issued by the respondent No. 4 by which the request of the petitioners to substitute the name of the petitioner No.1 in place of the petitioner no.2, who was included in the wait list for the compassionate appointment has been rejected.

3. The learned counsel for the petitioner by relying upon illustration (iii) in para 41 of the

judgment in **Writ Petition No. 3701/2022 (Kalpana Wd/o Vilas Taram and another Vs. The State of Maharashtra and others)** and other connected **petitions** submits, that the petitioners have right for substitution and, therefore, the rejection cannot be countenanced. Mrs. Maldhure, leaned counsel for the respondents submits, that the application for substitution by the petitioners came at a belated stage when the final select list for the appointments in the vacancies, which were reserved for compassionate appointment, was already finalized in which the petitioner no.2 was granted employment based upon the educational qualifications of the petitioners.

4. The factual position which requires consideration is that on 13.10.2020, the father of the petitioners, who was employed as Gramsevak with the respondent No. 3 Panchayat Samiti, Gondsawari, passed away, on account of which, on 05.01.2021, an application came to be filed by his widow to grant compassionate appointment to the petitioner No. 2, who was then studying in 10th std.

5. The process for filling in the vacancies reserved for being filled in from the candidates in the compassionate appointment category, considering vacant posts which were available at

that point of time, commenced and a waiting list of 125 candidates was prepared on 01.1.2024 and list was accordingly published on the website of the Zilla Parishad. The wait listed candidates were then invited on 22.7.2024 for verification of the documents. The petitioner 2 was at Sr. No. 92 in this wait list on the basis of his educational qualifications. The interim wait list was prepared on 09.8.2024 and published on the authorized website, inviting objections upto 14.8.2024. After considering the objections, the final list for appointment to the various posts available with the respondent nos.3 and 4 was prepared on 30.9.2024. It is just before this point of time that by a communication dated 30.08.2024, that the petitioner no.2 sought substitution of his name by that of the petitioner no.1 which came to be rejected. In our considered opinion, the law is well settled that grant of compassionate appointment is not as a matter of right. It is merely an arrangement made for the family, to tide over the sudden crises which has been faced by the family, on account of the loss of bread earner. This being the legal position, any application, for substitution ought to have been made by the petitioner no.2 within a reasonable time of 05.01.2021. It is not the case as if the petitioner no.2 was unaware of the publication

of the wait list prepared on 01.1.2024 or the interim wait list dated 09.08.2024, so as to claim ignorance of the selection of the petitioner no.2, for the purpose of appointment as Arogya Sevak. The appointment order dated 08.10.2024 (page 105) indicates, that based upon the educational qualifications of the petitioner No. 2, he was appointed as an Arogya Sevak with Virurgadegaon Primary Health Center, Kawthala, Tah. Korpana, in which he was to join within 30 days from the aforesaid order dated 08.10.2024.

6. Though the learned Full Bench has given illustration (iii) in para 41 of its judgment in **Kalpana Taram** (supra), the same is based upon the background, that the original applicant, was to attain 45 years of age and therefore, substitution was required. Such an application in our considered opinion has to be made within a reasonable period of time and a plea of substitution ought not to be entertained when the entire process of selection for appointment is almost over, which is the position in the present case. Though reliance is placed upon **State of Punjab Vs. Bandeep Singh and others, (2016) 1 SCC 724** by the learned counsel for the petitioners that the decision cannot be substituted by the reason subsequently, there cannot be any quarrel

with the aforesaid proposition, however, what is material to note is that in the instant matter there is an absolute lack of legal right in the petitioners, who claim compassionate appointment apart from which application for substitution has come at the time when the list of appointees, for being appointed on compassionate basis was almost finalized. There is absolutely no whisper in the application for substitution either, of the reason of substitution, as all that is says that he wants to substitute the name of his sister, the petitioner no.1 as he has not completed his education. What is also material to note is that the application itself indicates that the said petitioner was already selected at Sr. No. 92 for being appointed as an Arogya Sevak and, therefore, cannot claim any ignorance of entire process which commenced from 01.01.2024 in this regard. We, therefore, do not see any merit in the petition. The petition is dismissed. No costs.

(ABHAY J. MANTRI, J.)

(AVINASH G. GHAROTE, J.)