



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1833 OF 2026

1. Maya W/o Shantaram Deshmukh,
Age : 48 years, Occu.: Household,
 2. Shrinath S/o. Shantaram Deshmukh,
Age : 21 years, Occu. Education,
- Both R/o. Dongar Kini, Tq. Malegaon,
Dist. Washim.

....Petitioners

Versus

1. The State of Maharashtra
2. The Chief Executive Officer,
Zilla Parishad, Nanded, Dist. Nanded.

...Respondents

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Mr. Vijay Vasant Rao Deshmukh – Advocate for the Petitioners
Mr. A. M. Phule – AGP for Respondent No. 1 / State
Mr. S. B. Pulkundwar – Advocate for Respondent No. 2

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CORAM : SMT. VIBHA KANKANWADI
AND
HITEN S. VENEGAVKAR, JJ.

DATED : 24TH MARCH, 2026

ORAL JUDGMENT [Per Smt. Vibha Kankanwadi, J.] : -

1. The present petition has been filed seeking the following
reliefs:-

“C” *By a writ of certiorari, order or direction in the nature of certiorari, or by any other appropriate writ or order in the like nature, quash and set aside the communication/order dated 18.09.2023 (Exhibit-E) issued by the Chief Executive Officer, Zilla Parishad, Nanded.*

“D” Declare that the petitioners are entitled to substitution of name of petitioner No.2 in place of petitioner No.1 for the purpose of compassionate appointment.

“E” By way of writ of Mandamus, or direction in the nature of Mandamus, or by any other appropriate writ or order in the like nature, direct the respondents to consider and decide afresh the petitioner’s request for compassionate appointment by permitting substitution, in accordance with the judgments of this Hon’ble Court dated 28.05.2024 and 11.10.2024 and Government Resolutions dated 17.07.2025 and 31.07.2025, within a stipulated time.

2. Heard the learned Advocate for the Petitioners. The learned AGP waives service of notice on behalf of Respondent No. 1, and learned Advocate Mr. S. B. Pulkundwar waives service of notice for Respondent No. 2.

3. The Petitioners have come with a case that Petitioner No. 1’s husband and the father of Petitioner No. 2, namely, Shantaram Baburao Deshmukh, was serving as a Gramsevak in Panchayat Samiti, Umari, District Nanded. He expired on 08.06.2014 in harness. Immediately after the demise of the husband of Petitioner No. 1, she submitted an application on 27.01.2015 seeking appointment on compassionate grounds with Respondent No. 2. Her claim was rejected by Respondent No. 2 on 07.10.2021 on the ground that she had crossed the age limit of 45 years. Therefore, Petitioner No. 1 again submitted an application on 29.03.2023 to Respondent No. 2 seeking consideration of her son’s name for appointment on compassionate grounds. Being

aggrieved by the rejection dated 07.10.2021 and the inaction on the part of Respondent No. 2, the Petitioners had filed Writ Petition No. 6748 of 2023. The said Writ Petition came to be disposed of on 01.09.2023 by directing the Zilla Parishad to take a decision on the application dated 29.03.2023 within a period of 60 days from the date of said order. Thereafter, Petitioner No. 2 made an application to Respondent No. 2 on 12.09.2023 and pointed out the order passed by this Court. In fact, Respondent No. 2 had not complied with the order passed by this Court and, therefore, the Petitioners were required to file Contempt Petition No. 626 of 2025. The Respondent–Zilla Parishad, by communication dated 18.09.2023, rejected the substitution of Petitioner No. 2 in place of Petitioner No. 1 on the ground that the Government Resolution dated 21.09.2017 does not permit such substitution after the age limit of 45 years has been crossed. In fact, the said order was placed for the first time during the hearing of Contempt Petition No. 626 of 2025. The impugned communication dated 18.09.2023 was never served upon the Petitioners. The Contempt Petition was thereafter disposed of on 04.12.2025, taking into consideration the communication dated 18.09.2023. Hence, this Writ Petition.

4. The learned Advocate for the Petitioners submits that the Full Bench of this Court, in *Writ Petition No. 3701 of 2022 (Kalpana Wd/o. Vilas Taram and another v. The State of Maharashtra and*

Others), along with companion matters, decided on 28.05.2024, has held 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 compassionate appointment must be granted. He further submits that, in *Writ Petition No. 4918 of 2022 [Smt. Manisha w/o Vinod Yewale and another v. The State of Maharashtra and Others]*, along with companion matters, decided by the Coordinate Bench of this Court at Nagpur on 11.10.2024, the same issue has been considered in light of the Full Bench decision, and therefore, the rejection cannot be said to be justifiable.

5. The learned Advocate for Respondent No. 2 submits that the Full Bench delivered its judgment on 28.05.2024 and, pursuant to the Full Bench decision, the Government Resolutions dated 17.07.2025 and 31.07.2025 clearly provide that the said Government Resolutions would come into effect from the date of their issuance, however, by order dated 18.09.2023, Respondent No. 2 had already rejected the application dated 29.03.2023. The communication dated 18.09.2023 states that there is no provision under the Government Resolution which permits substitution.

6. We are not at all impressed with the submissions made by the learned Advocate for Respondent No. 2. Having regard to the facts,

it appears, that the office of Respondent No. 2 has adopted dilatory tactics. When the application was made by Petitioner No. 1 on 27.01.2015, she had disclosed her age, yet the application remained pending until 2018, by which time she had attained the age of 45 years, and it was thereafter rejected on 07.10.2021 on the ground that she had crossed the age limit of 45 years. There appears to be no explanation for the inaction or delay of about five to six years in deciding the said application. Secondly, we do not deem it necessary to examine the contention as to whether the communication dated 18.09.2023 was not served upon Petitioner No. 1, in view of her submission that the said order came to be placed on record only in the Contempt Petition filed in 2025. However, the fact remains that, by the time the Contempt Petition was filed, the decision of the Full Bench had already been pronounced on 28.05.2024.

7. One more aspect that is required to be noted is that, the questions those were referred to the Larger Bench included Question No. ii, and the Hon'ble Bench took up two parts thereof for discussion, of which part "b" is particularly important, which reads as under.

“(b)” Whether the policy of the State, which permits substitution even on account of crossing particular age limit of 45 years is contrary to the object and purpose for which a compassionate appointment has been granted?”

8. The answer given to the above question is ‘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 compassionate appointment must be granted’. Now, once the law has been declared and its impact on the interpretation of existing provisions is considered, its application cannot be confined to prospective effect alone. It constitutes an interpretation of the law and, therefore, would also have retrospective effect subject, of course, to certain exceptions, depending on when the substitution was requested.

9. In *Manisha Yewale (supra)*, it appears that, on behalf of Respondent No. 1 i.e. the State Government, an objection was raised that Petitioner No. 1 had crossed the age of 45 years and, therefore, in view of Clause 3.11 of the Government Resolution dated 21.09.2017, the petitioners were not entitled to claim compassionate appointment, however, relying on the Full Bench’s decision in *Kalpna Vilas Taram (supra)*, the said objection was not accepted. It was specifically observed in paragraph number 8 of the judgment delivered in *Manisha Yewale (supra)*, which reads thus:

“8. What we have noticed is that despite the law laid down by this Court interpreting Clause Nos. 3.11 and 3.21 of the Government Resolution dated 21.09.2017, as regards the policy of the State Government relating to compassionate appointments, the concern

authorities are continuing with its spree of rejecting the claims for substitution of the name of legal heir instead of the previous applicant on crossing the age of 45 years without considering the law laid down in the case of Kalpana Taram. (supra).

We expect all the concerned, who are entrusted with the responsibility of considering the claim of the legal heirs of the deceased employee for compassionate appointment, to be conscious of the law laid down by this court in the case of Kalpana Taram (supra) regarding the applicability of clauses 3.11 and 3.21 of the Government Resolution dated 21.09.2017, as it binds one and all.

We have repeatedly, come across cases where the authorities, exercising their powers, are rejecting the claim of the aggrieved persons for substitution of their names. We expect them not to act in violation of the law that has been laid down, interpreting the conditions in the Government Resolution dated 21.09.2017, as the same has attained finality.

Not only this, we request the Assistant Government Pleader Mr. Ghurde to circulate the decision of the Full Bench of this court to the state government, who shall circulate it to all the concern, so that the law is abided by all those involved.”

10. If the above clarification was again made *vide* Judgment dated 11.10.2024, then the Government Resolution dated 17.07.2025, which states that it would come into effect from the date of its issuance, is incorrect and contrary to the decision of the Full Bench, which is not permissible. The Government Resolution dated 17.07.2025 was subsequently made applicable to the Zilla Parishads by the Government Resolution dated 31.07.2025 and, therefore, is also erroneous. From a legal standpoint, substitution ought to be allowed in the present matter. The application for appointment on compassionate basis made in 2015

was rejected after an inordinate delay of five to six years, and immediately thereafter, the Petitioners approached this Court by filing Writ Petition No. 6748 of 2023, pursuant to which appropriate directions were issued. In these circumstances, it cannot be said that there was any delay on the part of the Petitioners in approaching Respondent No. 2 for compassionate appointment. With these observations, we proceed to pass the following order:

ORDER

- [i] The Communication / Order dated 18.09.2023 issued by Respondent No. 2 is hereby quashed and set aside.
- [ii] Respondent No. 2 is directed to substitute the name of Petitioner No. 2 in place of Petitioner No. 1 for the purpose of compassionate appointment and if at all, there would a suitable vacancy available, Respondent No. 2 shall proceed to consider the case of Petitioner No. 2 accordingly.
- [iii] The Petition stands disposed of in the aforesaid terms. No order as to costs.

[HITEN S. VENEGAVKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE