



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 3095 OF 2025

1. Smt. Anjali Mahendrakumar Jambulkar,
Age about 52 years, Occ- Household,
2. Shushrusha Mahendrakumar Jambulkar,
Age about 28 years, Occ.- Nil.
Both petitioners R/o. Gurudeo nagar,
Ward no. 6, At post Amgaon, Tahsil
Amgaon, Dist. Gondia.

... PETITIONERS

...VERSUS...

1. State of Maharashtra,
Through its Secretary,
Public Works Department,
Mantralaya, Mumbai-32.
2. Zilla Parishad Gondia,
Through its Chief Executive Officer.

...RESPONDENTS

Mr. N. S. Warulkar, Advocate for petitioners
Ms. H. S. Dhande, AGP for respondent no. 1/State
Mr. A. M. Dixit, Advocate for respondent no. 2

CORAM : SMT. M.S. JAWALKAR AND
NANDESH S. DESHPANDE, JJ.

RESERVED ON : 16th FEBRUARY, 2026.
PRONOUNCED ON : 27th FEBRUARY, 2026.

JUDGMENT (PER : NANDESH S. DESHPANDE, J.)

1. **Rule.** Rule is made returnable forthwith. Heard finally with the consent of the learned counsel for the parties.

2. This is a petition challenging the order dated 25.08.2021, passed by the respondent no. 2 – Zilla Parishad, Gondia, by which the name of the mother of the petitioner no. 2, i.e. the petitioner no. 1, herein was removed from the waiting list of compassionate appointments. It further prays for holding and declaring that the petitioners are eligible for the benefit of compassionate appointment and for a direction to substitute the name of the petitioner no. 2 in place of petitioner no. 1.

3. Facts which are more or less undisputed can best be stated as under:-

4. The petitioners are legal heirs of late Shri Mahendra Bhaiyyalal Jambulkar, who was working on a permanent post of Senior Clerk in Public Works Department, Amgaon of the respondent no.2 Zilla Parishad. He expired on 14.01.2008 in a fatal

accident, leaving behind the petitioners as his legal heirs and representatives.

5. Thereafter, on 01.02.2008 and on 23.04.2008, the petitioner no. 1, being the wife of the deceased, applied for compassionate appointment by submitting applications and requested for appointment in Class-III category. It is noteworthy to mention that at the relevant time, the age of the petitioner no. 1 was 41 years.

6. Thereafter, on 01.07.2014, she applied for appointment for her son, but during that period of time, the said son was only 12 years of age. On 31.08.2020, the respondent no. 2 published a waiting list, wherein the name of the said son was not included on a ground that he was minor and his candidature would be considered after he becomes a major. The respondent no. 2 thereafter issued another waiting list, in which the name of the petitioner no. 1 was included and continued. However, subsequently, in the waiting list of 01.01.2021, as the petitioner no. 1 attained 45 years, the respondent no. 2, vide its order dated 25.08.2021, rejected the claim of petitioner no. 1 for appointment. Being aggrieved by this, the petitioner no. 1 submitted fresh request on 24.02.2025 for

substituting and including her daughter's name, i.e. the petitioner no. 2, herein, in the compassionate appointment waiting list. In the backdrop of these facts, the present petition is filed, praying for reliefs as stated above.

7. We have heard Mr. N.S. Warulkar, learned counsel for the petitioners, as also Ms. H. S. Dhande, learned AGP for the respondent no. 1, and Mr. A. M. Dixit, learned counsel for the respondent no. 2.

8. Learned counsel for the petitioners submits that the impugned order dated 25.08.2021 is erroneous and contrary to the law as led down by this Court in the judgment of *Kalpana wd/o Vilas Taram and another v. State of Maharashtra and others*, reported in **2024(04) Mh.L.J. (F.B.) 312**. He further submits that the respondent no. 2 has failed to appreciate that initially the name of the son of the petitioner no. 1, was in fact substituted, but he being a minor, was not eligible. In the backdrop of these facts, the respondent no. 2 ought to have substituted the name of the daughter i.e. petitioner no. 2. He further submits that admittedly the family has not taken any benefit of compassionate appointment

scheme and therefore the removal of the name of the petitioner no. 1 from the waiting list is absolutely illegal.

9. *Per contra*, the respondent no. 2 opposes the contentions advanced by the learned counsel for the petitioners. He submits that the request dated 24.02.2025 for substituting name of the daughter i.e. petitioner no. 2 is highly belated, being filed 17 years after the death of the employee. It is his submission that the petitioner no. 2 was never a prior applicant nor included in any waiting list earlier. He submits that the judgment of ***Kalpana wd/o Vilas Taram and another v. State of Maharashtra and others*** is factually different since, in the said case, the deceased's dependent was already part of the process. He therefore prays for dismissal of the petition.

10. In the backdrop of these facts, we have appreciated the contentions advanced by the learned counsels, and have also gone through the judgment referred to Supra. The Full Bench of this Court, while answering the reference, stated that substitution of name of another member in place of a member who has applied on account of the said member crossing the age limit of 45 years is not contrary to the object and purpose for which compassionate

appointment must be granted. Further, this Court, in **Writ Petition No. 2898 of 2023, *State of Maharashtra and others v. Smt. Mala Wd/o Sunil Wankhade and others***, relying on the Full Bench, has upheld the order of the Maharashtra Administrative Tribunal which states that the substitution was permissible since the minor had applied within one year from the date of attaining majority. Further, in the case of ***Vijaya W/o Vilas More and another v. State of Maharashtra and others***, in **Writ Petition No. 185 of 2024**, this Court has also held on similar lines.

11. Reverting to the facts of this case, and as can be seen from the record, initially the petitioner no. 1 promptly applied on 01.02.2008 after the death of the employee on 14.01.2008. Thereafter, she applied for her son also, but however, the said son being minor at the relevant time could not be included. However, the reference is found in List dated 31.08.2020, wherein name of the son, namely Ashay Mahendra Jambulkar, was included with the remark that he was a minor.

12. In the backdrop of these facts, the order impugned passed on 25.08.2021 is concerned, the said order, exclude the name of the

petitioner no. 1 from the waiting list, she having completed 45 years of age. However, it is noteworthy to mention that the petitioner no. 1 had already requested the respondents for appointment of her son, which as stated supra, finds a place in the waiting list dated 31.08.2020. She therefore on 23.07.2024, and again on 24.02.2025, reiterated the request, but as a matter of fact, no action has been taken over the said request. In the representation / application dated 24.02.2025, the petitioner no. 1 specifically stated that instead of her son, name of the daughter, namely the petitioner no. 2, should be included in the waiting list. Thus, it was consistently the request of the petitioner no. 1 that even though she may be considered as a first preference but if she crosses the age bar, either of her son or daughter should be considered for compassionate appointment. Thereafter, she has restricted her claim to her daughter, which plea finds a place in the application dated 24.02.2025.

13. In that view of the matter, we are of the considered opinion, the interest of justice would serve if the respondent no. 2 is directed to consider the application dated 24.02.2025, filed by the petitioner no. 1 as expeditiously as possible and by considering the judgment

of *Kalpana wd/o Vilas Taram and another v. State of Maharashtra and others* referred to Supra. In that view of the matter, we pass the following order.

ORDER

- i) Writ Petition is partly allowed.
- ii) The respondent no. 2 is directed to consider the application dated 24.02.2025, filed by the petitioner no. 1 by taking into consideration the judgment of Full Bench in the case of *Kalpana wd/o Vilas Taram and another v. State of Maharashtra and others* referred to Supra within a period of 6 weeks from today and in accordance with law.
- iii) The petitioners to appear before the respondent no. 2 on 05.03.2026 and to appraise the said respondent of the said order.
- iv) Petition is disposed of in above terms.

(NANDESH S. DESHPANDE, J.)

(SMT. M.S. JAWALKAR, J.)

Shubham