



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR

WRIT PETITION No.8169 OF 2025

1. Ratna W/o Surendrasingh Damahe,
Age: 49 years, Occupation : Housewife,
R/o. At post Dewhadi, Taluka Tumsar,
District Bhandara.
2. Priya D/o. Surendrasingh Damahe,
Age: 27 years, Occu : nil,
R/o. At post Dewhadi, Bhandara.
Taluka Tumsar, District Bhandara. : PETITIONERS

...VERSUS...

1. The State of Maharashtra,
Through it Secretary,
Ministry of Social Welfare,
Mantralaya, Mumbai : 32.
2. Zilla Parishad, Gondia,
through its Chief Executive Officer,
Office at Amgaon Road,
Administrative Building,
Gondia-441 601. : RESPONDENTS

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Ms. Chahal D. Lilhare h/f. Mr. S.S. Dhengale, Advocate for Petitioner.
Mss. H.N. Jaipurkar, Assistant Government Pleader for Respondent
No.1.
Mr. A.Y. Kapgate, Advocate for Respondent No.2.

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CORAM : SMT. M.S. JAWALKAR AND
NANDESH S. DESHPANDE, JJ.
DATE : 08th APRIL, 2026.

ORAL JUDGMENT : (Per : NANDESH S. DESHPANDE, J.)

1. Rule. Rule made returnable forthwith. Heard finally with the consent of parties.
2. The present petition assails the communication dated 25.8.2021 thereby holding petitioner No.1 ineligible to be absorbed on compassionate grounds and removing her name permanently from the waiting list for compassionate appointment.
3. As can be seen from the averments in the petition, the petitioner No.1 is a legally wedded wife of the deceased employee, who was serving under the respondent as 'Shikshan Sevak'. On 5.3.2013 he died in harness leaving behind dependents the petitioner No.1 being the deceased wife i.e. the widow and the petitioner No.2 being the daughter. On 15.10.2013 the petitioner No.1 being fully eligible submitted an application to the respondent No.2 i.e. Zilla Parishad, Gondia for compassionate appointment in accordance with the prevailing policy. On the next day i.e. 16.10.2013 after due scrutiny, the application of the petitioner No.1 was accepted and the communication was accordingly issued to her on 16.11.2013 stating that her claim would be considered strictly as per the seniority and that the petitioner No.1 is at Sr.No.505 in the seniority list and the candidates upto Sr.No.313 have been accommodated.

4. Thereafter on 1.1.2019 the respondent No.2 published a seniority list of eligible candidates placing the petitioner at Sr.No.249 and requiring the petitioner No.1 to remain present with requisite documents for verification on 10.3.2021. It is the contention of the petitioner that in spite of repeated communications from time to time and a representation dated 14.6.2021, the respondents have failed to finalize her claim for an inordinate length of time. Finally, vide impugned communication dated 25.8.2021, the claim of the petitioner No.1 has been rejected on the ground that she has crossed cut of age of 45 years.

5. We have heard Ms. Chahal D. Lilhare h/f. Mr. S.S. Dhengale, learned counsel for the petitioners, Ms. H.N. Jaipurkar, learned Assistant Government Pleader for the respondent No.1 and Mr. A.Y. Kapgate, learned counsel for the respondent No.2.

6. Learned counsel for the petitioners by taking us through the impugned communication submits that the impugned communication cannot withstand the scrutiny of law more particularly in view of the Government Resolution dated 17.7.2025 and Judgment in the case of **Kalpna wd/o. Vilas Taram and one Vs. State of Maharashtra and others in Writ Petition No.3701/2022 with connected matters, dated 28.5.2024.** It is her submission that

the petitioner No.1 having already applied to the respondent No.2 before crossing the age of 45 years and, therefore, her name could not have been removed, in view of the fact that she had already communicated vide her communication dated 14.6.2021 that in her place name of petitioner No.2 is substituted. As far as delay is concerned, the learned counsel for the petitioner submits that the petitioner being unaware of the law could not approach this Court within a reasonable period of time.

7. Per contra, Mr. A.Y. Kapgate, learned counsel for the respondent No.2 opposed the contentions advanced by the learned counsel for the petitioner. It is his submission that the impugned order is passed on 25.8.2021 and there has been inordinate delay in approaching this Court. He further submits that the policy as spelt out in the Government Resolution dated 17.7.2025 was not in vogue and, therefore, the benefit of the said policy cannot be granted to the case as that of the petitioner more particularly when the claim has already been rejected. He, therefore, submits that the action of the respondents was in consonance with law and, therefore, supports the impugned action.

8. We have considered the contentions canvassed by the respective counsels and with their assistance gone through the record of the matter. Various dates mentioned supra regarding the

death of the deceased employee while in service, petitioner No.1 applying in this place for compassionate appointment are more or less not disputed. It is also a matter of record that the only reason which has weighed with the respondent No.2 while rejecting the claim of the petitioner No.1 is a fact that she has crossed the age of 45 years. It also also been seen from the authoritative pronouncement of judgment in **Kalpana wd/o. Vilas Taram and one Vs. State of Maharashtra and others** (supra), the Full Bench of this Court vide Judgment dated 28.5.2024 while answering the question posed to it has unequivocally stated that substitution seeking the name of another member in the 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. The Government Resolution dated 17.7.2025 also spelt out same policy which has been stated by the Full Bench of this Court.

9. In that view of the matter, in our considered opinion the order dated 25.8.2021 cannot be sustained and has to be quashed and set aside. We, therefore, pass the following order :

ORDER

- (i) The Writ Petition is allowed.

(ii) The order dated 25.8.2021 passed by the respondent No.2, Chief Executive Officer, Zilla Parishad Gondia is quashed and set aside.

(iii) We further direct the respondent No.2 Chief Executive Officer, Zilla Parishad Gondia to include the name of petitioner No.2 in the waiting list of the eligible candidates in place of petitioner No.1 maintained by it for compassionate appointment.

(iv) The Petition is, therefore, disposed of.

(v) Rule is made absolute in the abovesaid terms.

(NANDESH S. DESHPANDE, J.)

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