

O.A. No.447 of 2019

B.M. Thakur

..Applicant

Vs.

The State of Maharashtra & Ors.

..Respondents

Heard Shri A.V. Bandiwadekar, learned Advocate for the Applicant and Ms. Neelima Gohad, learned Presenting Officer for the Respondents.

2. Admit. To come up for final hearing in due course.

Sd/-
(P.N. Dixit)
Vice-Chairman
23.7.2020

Sd/-
(Mridula R. Bhatkar, J.)
Chairperson
23.7.2020

(sgj)

O.A. No.1016 of 2019

Dr. S.C. Deshmukh & Ors.

..Applicants

Vs.

The State of Maharashtra & Ors.

..Respondents

Heard Shri A.V. Bandiwadekar, learned Advocate for the Applicants and Miss S.P. Manchekar, learned Chief Presenting Officer for the Respondents.

2. Admit. To come up for final hearing in due course.

Sd/-
(P.N. Dixit)
Vice-Chairman
23.7.2020

Sd/-
(Mridula R. Bhatkar, J.)
Chairperson
23.7.2020

(sgj)

O.A. No.333 of 2020

Dr. D.K. Landge

..Applicant

Vs.

The State of Maharashtra & Ors.

..Respondents

Heard Shri M.V. Thorat, learned Advocate for the Applicants and Miss S.P. Manchekar, learned Chief Presenting Officer for the Respondents.

2. Amendment in the date of advertisement is allowed. Amendment to be carried out forthwith.

3. In the present case the applicant has applied in the cadre of Civil Surgeon in the State of Maharashtra. The respondents have called for the applications to fill up 123 vacancies in the cadre of Civil Surgeon. The applicant who belongs to NT(C)-Dhangar reserved category has applied. His educational qualification is MBBS and DNB (ORTHO). He claims that he has more than 12 years experience as required. The respondents published the list of eligible as well as ineligible candidates on 6.6.2020. His name is shown at Sr. No.176 in the list of ineligible candidates. Therefore he is before this Tribunal. He prays for declaration that the applicant is eligible as per the advertisement issued by the respondent no.1 and if at all he is held eligible then he be called for interview in the cadre of Civil Surgeon as per advertisement dated 4.9.2019. He further prays that respondents be directed to appoint him in the cadre of Civil Surgeon if the respondents fail to conduct his interview.

4. The Ld. Advocate for the applicant points out that in the list of ineligible candidates his educational qualification is wrongly shown as MD (PSM) and in the column of committee remarks at Sr. No.176 (page 92 of OA) is stated that, "CANDIDATES INFORMED REGARDING SUBMISSION OF REQUIRED DOCUMENTS. BUT

COMPLIANCE NOT RECEIVED. HENCE NOT ELIGIBLE.”

5. The Ld. Advocate for the applicant submits that the applicant is a Post Graduate in Orthopedic and he holds the requisite qualification of DNB (Ortho.) which is recognized by the Medical Council of India (MCI). He relied on the Post Graduate certificate i.e. DNB at page 136 of OA which is issued by the National Board of Examinations, New Delhi of the year December, 2014.

6. Ld. Advocate for the applicant drew our attention to his representation at page 124 Exh.F dated 12.6.2020 made to the respondents requesting rectifying educational qualification from MBBS to DNB (ORTHO). Along with it he has also submitted work experience documents.

7. Ld. CPO on instructions from Smt. K.B. Surwade, Chief Administrative Officer, O/o Commissionerate of Health Service, Mumbai-respondent no.2 who is present in the Court clarifies that respondent no.2 has acknowledged correspondence made by applicant & necessary documents and accordingly has corrected the educational qualification and remarks in the ineligible list which are appearing in column of the application at Sr. No.176.

8. Ld. CPO further submits that respondents have not yet started the process of interview and therefore the respondents will do the needful.

9. The clarification made by Ld. CPO is accepted and thus no further orders are required in this matter as the respondents have corrected the remarks as per the qualification and submissions of the applicant. OA is accordingly disposed off.

Sd/-
(P.N. Dixit)
Vice-Chairman
23.7.2020

Sd/-
(Mridula R. Bhatkar, J.)
Chairperson
23.7.2020

(sgj)

C.A. No.20 of 2020 in O.A. No.238 of 2020

N.K. More ..Applicant
Vs.
The State of Maharashtra & Ors. ..Respondents

Heard Shri K.R. Jagdale, learned Advocate for the Applicant and Smt. K.S. Gaikwad, learned Presenting Officer for the Respondents.

2. This contempt application is directed against the respondents for non compliance of the order dated 11.6.2020 passed by Single Bench of the Tribunal directing the respondents to take review of suspension of the applicant in terms of GR dated 9.7.2019 which is in the light of ratio laid down by the Hon'ble Supreme Court in the case of Ajay Kumar Chaudhari Vs. Union of India, 2015 (7) SCC 291.

3. Ld. PO submits that she needs time to take instructions.

4. S.O. to 30.7.2020.

Sd/-
(P.N. Dixit)
Vice-Chairman
23.7.2020

Sd/-
(Mridula R. Bhatkar, J.)
Chairperson
23.7.2020

(sgj)

O.A. No.323 of 2020

N.S. Patil

..Applicant

Vs.

The State of Maharashtra & Ors.

..Respondents

Heard Shri K.R. Jagdale, learned Advocate for the Applicant, Smt. K.S. Gaikwad, learned Presenting Officer for the Respondents No.1 & 2 and Shri Abhineet N. Pange, learned Advocate for Respondent No.3.

2. In the first set of OA page no.14 is missing.

3. Ld. PO submits on instructions from Shri N.B. Sanase, Assistant Section Officer, MPSC – Respondent no.2 that the role of MPSC is limited in the selection process. The MPSC after conducting the examination has sent list of recommended candidates on the basis of performance of the candidates in the examination. The candidates who have secured more marks are recommended. As per instructions Ld. PO states that respondent no.3 has secured 138 marks and the applicant has secured 114 marks and therefore the name of the applicant was not recommended. Further verification of medical examination is not within the ambit of the MPSC.

4. The applicant makes his claim on only one ground that respondent no.3 was found colour blind in the examination and both applicant and respondent no.3 have opted the post in Open Sports category. If respondent no.3 is held disqualified then that post will fall vacant and applicant will get his claim.

5. The respondent no.1 is directed to file affidavit in reply along with medical certificate of respondent no.3. Ld. Advocate for respondent no.3 submits that he has received

the notice recently and wants time to file reply and he has not received complete set of OA.

6. Ld. Advocate for the applicant is directed to supply full set of OA along with annexures to the Ld. Advocate for respondent no.3.

7. S.O. to 6.8.2020. Parties to note that the matter may be taken for final hearing as the issue is short.

8. Ld. Advocate for respondent no.3 undertakes to serve copy of reply to applicant and respondents no.1 & 2 one week before the date.

Sd/-
(P.N. Dixit)
Vice-Chairman
23.7.2020

Sd/-
(Mridula R. Bhatkar, J.)
Chairperson
23.7.2020

(sgj)

O.A. No.1133 of 2018

B.A. Kale & Ors. ..Applicants
Vs.
The State of Maharashtra & Ors. ..Respondents

Heard Shri A.R. Deshpande, learned Advocate for the Applicants and Ms. S.P. Manchekar, learned Chief Presenting Officer for the Respondents.

2. In this matter it is informed that Indian Nursing Council (INC) has issued fresh norms on 20.2.2019. On that basis now revised rules are to be framed. Ld. Advocate for the applicant submits that in this change there is only one material change i.e. qualification of the entry level education to the nurses. It was, a person qualified as General Nursing & Midwifery was appointed and as per the new norms the persons who hold the qualification of B.Sc. (Nursing) is eligible. Thus the educational qualification is upgraded.

3. Ld. CPO submits that Health Department has not yet framed the rules and they are in the process of framing rules and she wants time.

4. We have already expressed our displeasure of delay in framing the rules by the Public Health Department and ultimately it has resulted in stoppage of promotions in Nursing cadre since 2007. It is very urgent mater. Ld. CPO is directed to contact Secretary, Public Health Department immediately preferably today itself to get the instructions about framing of rules. The rules are required to be framed at the earliest preferably on or before 15.8.2020. This is the last chance given to the State Government.

5. The matter is fixed on 30.7.2020 and it will be taken thereafter on every court working day. It is also made clear that compliance of the order of this Tribunal dated 8.8.2019 has remained from the State Government.

Sd/-
(P.N. Dixit)
Vice-Chairman
23.7.2020

Sd/-
(Mridula R. Bhatkar, J.)
Chairperson
23.7.2020

(sgj)

O.A. No.313 of 2020

N.L. Thade ..Applicant
Vs.
The State of Maharashtra & Ors. ..Respondents

Heard Shri K.R. Jagdale, learned Advocate for the Applicant and Miss Neelima Gohad, learned Presenting Officer for the Respondents.

2. The applicant prays that the respondents be directed to pay regular pension, gratuity, commutation of pension, leave encashment with arrears along with accrued interest thereon. Applicant retired on 31.8.2018. He has submitted till today nearly 9 (nine) representations to the respondent no.1

3. Ld. PO to obtain instructions and file reply. Copy of reply is to be served two days in advance.

4. Issue notice returnable on 25.8.2020.

5. Tribunal may take the case for final disposal at this stage and separate notice for final disposal need not be issued.

6. Applicant is authorized and directed to serve on Respondents intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Private service is allowed in view of this present COVID-19 Pandemic situation. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.

7. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

8. The service may be done by hand delivery/ speed post/courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week before returnable date or on the same date. Applicant is directed to file affidavit of compliance and notice.

9. Ld. PO waives service of notice.

Sd/-
(Mridula R. Bhatkar, J.)
Chairperson
23.7.2020

(sgj)

O.A. No.322 of 2020

P.A. Chavan ..Applicant
Vs.
The State of Maharashtra & Ors. ..Respondents

Heard Shri K.R. Jagdale, learned Advocate for the Applicant and Smt. K.S. Gaikwad, learned Presenting Officer for the Respondents.

2. The applicant was posted at Nashik as Clerk. On 11.6.2019 she was promoted to the post of Awal Karkun and therefore transferred to Nandgaon, District Nashik on 23.6.2020. It is prayed that the posting at Nandgaon is not suitable to her due to her domestic problems. Therefore, she has given 3-4 options by naming the vacancies at the respective places in her petition/prayer clause. Ld. Advocate for the applicant submits that these choices were also given by the applicant when she was asked at the time of counseling and was promoted.

3. Ld. PO to obtain instructions and file reply. Copy of reply is to be served two days in advance.

4. Issue notice returnable on 13.8.2020.

5. Tribunal may take the case for final disposal at this stage and separate notice for final disposal need not be issued.

6. Applicant is authorized and directed to serve on Respondents intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Private service is allowed in view of this present COVID-19 Pandemic situation. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.

7. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

8. The service may be done by hand delivery/ speed post/courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week before returnable date or on the same date. Applicant is directed to file affidavit of compliance and notice.

9. Ld. PO waives service of notice.

Sd/-
(Mridula R. Bhatkar, J.)
Chairperson
23.7.2020

(sgj)

O.A.159/2020

1. Heard Smt. Punam Mahajan, learned Advocate for the Applicant and Shri A.J. Chougule, learned Presenting Officer for the Respondents.
2. In the present matter, the challenge is to the transfer order dated 20.02.2020 wherein interim relief is granted by this Tribunal having noticed that the Applicant has never made request for transfer which is the only ground for transfer, as stated in impugned transfer order.
3. Enough time is granted, but no reply is filed.
4. In view of above, the matter be kept for hearing at the stage of admission with liberty to the Respondents to file reply on or before the date of hearing.
5. S.O. to 6th August, 2020.

Sd/-
(A.P. Kurhekar)
Member-J
23.07.2020

(skw)

O.A.264/2020

1. Heard Shri K.R. Jagdale, learned Advocate for the Applicant and Shri A.J. Chougule, learned Presenting Officer for the Respondents.
2. The learned P.O. submits that reply will be filed during the course of the day. The said statement is accepted and taken on record.
3. On the request of learned Advocate for the Applicant, two weeks' time is granted for filing Rejoinder, if any.
4. S.O. to 6th August, 2020.

Sd/-
(A.P. Kurhekar)
Member-J
23.07.2020

(skw)

O.A.324/2020

1. Heard Shri S.S. Dere, learned Advocate for the Applicant and Shri A.J. Chougule, learned Presenting Officer for the Respondents.

2. The present O.A. is filed seeking implementation of the order passed by Respondent No.1 – Director General of Police, Mumbai whereby the Applicants were posted at different places but they were not relieved by Respondent No.2 – Commissioner of Police, Mumbai.

3. The Applicants are working in the cadre of P.S.I. After completion of training period, the Respondent No.1 – Director General of Police issued posting by order dated 06.10.2018 posting them at various places. Thereafter, the Applicants made representation for modification of posting which was accepted by D.G., Mumbai.

4. Accordingly, the D.G. by orders dated 27.02.2019, 07.09.2019, 29.05.2019 and 14.06.2019 changed the posting of the Applicants and posted them at the places other than given to them in earlier order dated 06.10.2018. However, they were not relieved by Respondent No.2 – Commissioner of Police, Mumbai and therefore, approached this Tribunal.

5. In similar situation, the contemporaries of the Applicants who were not relieved despite the order of D.G. filed O.A.239/2020 which was disposed of by this Tribunal on 25.06.2020. The said O.A. was disposed of in view of statement made by learned P.O. on instructions from the C.P's office that the Applicants will be relieved from their present posts within 15 days, so as to join the modified posting given to them by D.G, Mumbai. Accordingly, they were relieved and the order was complied with.

6. Now, the Applicants being similarly situated are also claiming implementation of the order passed by D.G, Mumbai being not relieved by C.P, Mumbai.

7. It is really surprising that D.G, Mumbai who is competent authority has issued modification of posting order, but C.P, Mumbai who is subordinate to D.G. defied the order of D.G, Mumbai. *Prima-facie*, this is in subordination and dis-obedience of order of D.G, Mumbai.

8. Shri A.J. Chougule, learned P.O. tried to submit that because of administrative difficulties, the Applicants were not relieved by C.P, Mumbai. He has further submitted that the C.P, Mumbai had forwarded the proposal to the D.G, Mumbai on 22.06.2020 to retain the Applicants with him.

9. As of now, the orders passed by D.G, Mumbai are not modified, and therefore, those orders are deserve to be implemented, but surprisingly it is C.P. who is not relieving the Applicants despite the orders from his superior and competent authority for transfer of the Applicants.

10. In view of above, the Respondent No.1 – D.G, Mumbai is directed to explain the situation by filing Affidavit within a week, so that necessary orders should be passed.

11. S.O. to 30th July, 2020.

Sd/-
(A.P. Kurhekar)
Member-J
23.07.2020

(skw)