

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 849 OF 2018

**DISTRICT : AHMEDNAGAR
/ BEED**

1. **Dr. Vinod Abasaheb Kakde,**)
Age : 44 years, Occu. : Service,)
R/o. Bungalow No. 4, Nandanvan Nagar,)
Bhist Bag, Savedi, Tq. Ahmednagar,)
Dist. Ahmednagar.)
2. **Dr. Sanjivani Chitambar Gavhane,**)
Age : 44 years, Occu. : Service,)
R/o. 19, Navjivan Teachers Colony,)
Behind S.T. Stand, Beed, Tq. & Dist. Beed.)
3. **Dr. Vaibhav Dattatraya Shinde,**)
Age : Major, Occu. : At present Nil,)
R/o. 15-A, Jawan Nagar, Bijapur, Road,)
Solapur, Dist. Solapur.)

.. **APPLICANTS**

V E R S U S

1. **The State of Maharashtra,**)
Through its Secretary,)
Department of Public Health,)
Mantralaya, Mumbai – 400 032.)
2. **The Commissioner of Health Services/)**
Director of Health Services,)
Arogya Bhavan, St. George's Compound,)
Near C.S.M.T. Mumbai.)

.. **RESPONDENTS**

APPEARANCE : Shri S.G. Chapalgaonkar, Advocate for the
Applicants.

: Shri M.S. Mahajan, Chief Presenting Officer for
Respondents.

CORAM : Justice Shri P.R. Bora, Member (J)
AND
Shri Bijay Kumar, Member (A)
DATE : 4.2.2022

O R D E R

(Per : Justice Shri P.R. Bora, Member (J))

1. “Whether the Post Graduate diploma in Public Health from ‘Sree Chitra Tirunal Institute for Medical Sciences and Technology, Trivandrum (for short “Sree Chitra University”)’ is an adequate qualification for conferment of promotion to the post of District Health Officer in terms of Maharashtra Medical and Health Services (Class-I) Recruitment Rules, 1981” is the issue which falls for our consideration in the present Original Application.

2. Since the facts are not in dispute as about the qualifications of the applicants and about their service record, we may not repeat these facts in the order. The relevant fact is that all the applicants are aspiring for the promotion to the post of District Health Officer and their chances of promotion depend on the decision on issue, which is mentioned hereinabove. All the

applicants are admittedly holding the post graduate diploma in Public Health (D.P.H.) from Sree Chitra University.

3. As is revealing from the record, the Departmental Promotion Committee in its meetings held on 11.04.2018 and 13.04.2018 had considered the case of applicant No. 3 Dr. Vaibhav Shinde and has held that he cannot be considered for promotion to the post of District Health Officer, as the post graduate diploma acquired by him from Sree Chitra University being one year course cannot be held equivalent to the MPH course of two years conducted by the universities in the State of Maharashtra. Since the applicant Nos. 1 and 2 are also holding same qualification, apprehending that they may also not be considered for further promotion of District Health Officer, have filed the present Original Application.

4. It has been argued by Shri S.G. Chapalgaonkar, learned Counsel appearing for the applicants that the D.P.H. qualification acquired from Sree Chitra University by the applicants is an adequate qualification for conferment of promotion to the post of District Health Officer. Our attention was drawn by the learned Counsel to the provisions under Maharashtra Medical and Health Services (Class-I) Recruitment

Rules, 1981. As defined in clause 2(c) of the said rules, 'Diploma' means 'a diploma of a statutory university'. Clause 3 of the aforesaid rules, pertains to appointment to the posts in the Maharashtra Medical and Health Services, (Class-I) enumerated in the Schedule appended to the said rules. As prescribed in the said rule, the appointment / recruitment to the said post are made by promotion, as well as, by nomination. The qualification and experience required for the promotional post is specified in the Schedule appended to the rules. Clause 3(a) of the said Schedule prescribes the following qualification for the post of District Health Officer :-

'Post Graduate degree in Preventive and Social Medicine or Post Graduate Diploma in Public Health (DPH) or a qualification accepted as equivalent by the Medical Counsel of India and with experience of Health Administration, Medical relief or Family Planning, Malaria / Leprosy under Government, Zilla Parishad or a local body for not less than 5 years in the case of those holding post graduate degree and 7 years in the case of those holding post graduate diploma, gained after acquiring the MBBS degree.'

As noted hereinabove, it is the contention of the applicants that they hold the qualification as prescribed in the aforesaid rule.

5. In the affidavit in reply filed on behalf of respondent Nos. 1 and 2, the contention of the applicants that, they hold the adequate qualification and that post graduate diploma in Public Health (DPH) from Sree Chitra University is the adequate qualification, have been denied. According to the respondent Nos. 1 and 2, the applicants possess one year diploma from Sree Chitra Tirunal Institute for Medical Sciences and Technology, Trivandrum, whereas in the State of Maharashtra two years MPH course from Sree Chitra University is considered as equivalent to DPH qualification prescribed in the rules, applicants are not entitled for promotion on the basis of said one year diploma course from Sree Chitra University.

6. As has been pointed out by learned Counsel appearing for applicants, Sree Chitra University is the university established by the act of Parliament. As per the Government Resolution dated 10.12.1998, which is filed by the applicants as Annexure A-8 to the Original Application, the degrees and diplomas granted by the educational institutions and universities established by the Act of Parliament or by deemed universities recognized by the University Grants Commission (UGC), as well as, the degrees in the Medical and allied subjects, which are included in the

Schedule appended to the Indian Medical Council Act, 1956, shall be deemed to be valid qualifications for the purpose of appointment on the post in the Public Health Department. List of such universities and institutions recognized by UGC is appended to the Government Resolution. Sree Chitra University is included in the said list as the 'institute of national importance'.

7. Vide G.R. dated 23.08.2011, the State has accepted that degrees conferred by the universities recognized by UGC, by the deemed universities and by autonomous institutions to which the Human Resources Department of the Center has given equivalence, are to be held valid even for the posts in the State Government services. As is revealing from the documents filed on record, the 'Diploma in Public health' granted by Sree Chitra University is included in the First Schedule to the Indian Medical Council Act, 1956. The Circular dated 12.03.2015 issued by the Sree Chitra University demonstrates that the Medical Council of India vide letter dated 10.09.2013 has communicated to the institute that the medical qualifications granted by the Sree Chitra University shall be deemed 'recognized medical qualifications' for the purpose of the Indian Medical Council Act,

1956 and shall be deemed to be included in the First Schedule to that Act.

8. From the material as has been placed on record, the applicants have sufficiently established that the medical qualifications granted by Sree Chitra University, which are included in the First Schedule of the Indian Medical Council Act, 1956 are the recognized medical qualifications. In the rules of 1981, the qualification prescribed for the post of District Health Officer is the Post Graduate degree in Preventive and Social Medicine or Post Graduate Diploma in Public Health (DPH). The qualification of 'Diploma in Public Health' from Sree Chitra University acquired by the applicants is the adequate qualification, as prescribed in the Rules of 1981. In the said rules, it is nowhere provided that the diploma course should be of two years. In the written statement the respondents, though, have raised a plea that the qualification as Post Graduate Diploma in Public Health from Sree Chitra University is not equivalent qualification, respondents have failed in substantiating the said plea.

9. In para 8 of the affidavit in reply filed on behalf of respondent Nos. 1 and 2, it is averred that "Departmental

Promotion Committee in its meetings held on 11.04.2018 and 13.04.2018 has taken a decision that, the DPH course of one year from Sree Chitra University, cannot be considered as an equivalent for two years diploma course in the Government of Maharashtra". On what basis the Departmental Promotion Committee has taken such decision, is not disclosed.

10. The question arises whether the Departmental Promotion Committee was having any right or authority to take such decision in view of the Rules of 1981, in the Schedule of which the qualification prescribed for the appointment to the post of District Health Officer is the Post Graduate Diploma in Public Health and when, it does not prescribe that the diploma course should be of two years. As defined in Rules of 1981, 'Diploma' means 'a diploma of a statutory university'. It is not in dispute that Sree Chitra University is established by an Act of Parliament and, thus, is statutory university. It is further not in dispute that the Post Graduate Diploma in Public Health (DPH) is acquired by the applicants from the said Sree Chitra University.

11. In the sur-rejoinder filed on behalf of respondent No. 1, it has been contended that in view of Government Gazette published on 22.12.2011, the Departmental Promotion

Committee in its meetings held on 11.04.2018 and 13.04.2018 has taken a decision that the Medical Officers, who have persuaded the DPH course for one year from Sree Chitra University cannot be considered for promotion to the post of District Health Officer. We have gone through the said Government Gazette. It cannot be interpreted to mean that the post Graduate Diploma from Sree Chitra University is not the adequate qualification for promotion to the post of District Health Officer according to the Rules of 1981. The said Government Gazette is issued pursuant to the Notification of Sree Chitra University, whereby the said university has added in Schedule 4 of its regulation of 1981 some more courses conducted by the said University of which courses at Sr. Nos. 6 to 13 are the degree courses.

12. It is brought to our notice that the Diploma in Public Health of Sree Chitra University has been duly registered in the Medical register of Maharashtra Medical Council as an additional medial qualification. Such certificate of one of the applicant viz. Dr. Kakade Vinod Abasaheb is placed on record at Exhibit RJ-7, page No. 180 of the compilation. Learned Counsel has further brought to our notice the order passed by this Tribunal in O.A. No. 97/2014 on 13.07.2016. In the said application, though the

issue raised was as about counting of experience, the observations made by this Tribunal in the body of the judgment impliedly suggest that the DPH course of Sree Chitra University is the adequate qualification for promotion to the post of District Health Officer. The said petition was filed by one of the present applicant Dr. Vaibhav Dattatraya Shinde.

13. We reiterate that respondents have not brought on record any material to substantiate the plea raised by them in their affidavit in reply to the effect that for promotion to the post of District Health Officer, the aspiring candidate must have completed two years diploma course in Public Health. In the schedule appended to the Rules of 1981, the qualification prescribed is 'Post Graduate Diploma in Public Health'. These rules nowhere provide that the said diploma course shall be of two years. Respondents have not brought to our notice any material showing that the State Government has at any point of time taken a decision that the qualification as Post Graduate Diploma in Public Health, prescribed for promotion to the post of District Health Officer in the Recruitment Rules of 1981 shall be of two years. On the contrary, G.R. dated 10.12.1998 expressly provides that Degrees and Diplomas granted by the University established by the Act of Parliament shall be held the appropriate

qualification for the appointment in the services of the State Government. Another G.R. dated 23.8.2011 provides that the equivalence granted by the Human Resources Department of Central Government to the various degrees and diplomas conducted by various Universities, Deemed Universities and Autonomous Bodies shall be held valid for the State Government services.

14. For the reasons stated above, in our considered opinion, the post graduate diploma in Public Health (D.P.H.) from Sree Chitra University is adequate qualification for conferment of promotion as District Health Officer in terms of Maharashtra Medical and Health Services (Class-I) Recruitment Rules, 1981. The Original Application, therefore, deserves to be allowed and is accordingly allowed in terms of prayer clause 32 (B) and 32 (C). There shall be no order as to costs.

MEMBER (A)

MEMBER (J)

Place : Aurangabad
Date : 4.2.2022