

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI

ORIGINAL APPLICATION NO.430 OF 2014

DISTRICT : MUMBAI

1. Smt. Neeta Dinesh Tawade.)
Working as Nurse at St. Georges)
Hospital, St. Georges Hospital)
Compound, Mumbai 400 001.)
 2. Smt. Ankita Achut Keni.)
Working as Nurse at Gokul Tejpal)
Hospital, Mumbai.)
-)...Applicants**

Versus

1. The State of Maharashtra.)
Through the Secretary,)
Medical Education & Drugs Dept.,)
Mantralaya, Mumbai - 400 032.)
2. The Director.)
Directorate of Medical Education)
& Research, Dental College Building,))
4th Floor, St. George Hospital Campus))
P. D'Mello Road, Mumbai - 400 001.))
3. The Principal.)
Institute of Nursing Education, Sir)
J.J. Hospital Campus, Byculla,)
Mumbai 400 008.)
4. The Secretary.)
Indian Nursing Council, Combined)



Council Building, Kotala Road,)
Temple Lane, New Delhi - 110 002.)...**Respondents**

Shri A.R. Pitale, Advocate for Applicants.

Shri N.K. Rajpurohit, Chief Presenting Officer for Respondents.

**CORAM : RAJIV AGARWAL (VICE-CHAIRMAN)
R.B. MALIK (MEMBER-JUDICIAL)**

DATE : 14.06.2016

PER : R.B. MALIK (MEMBER-JUDICIAL)

JUDGMENT

1. This Original Application (OA) brought by the two Nurses in the Government Hospitals throws up for determination essentially the issues that in the meanwhile have been determined by the Nagpur Bench (D.B) of this Tribunal in OA 264 of 2013 (Smt. Ratanama Niranjana Fulzele Vs. The State of Maharashtra and 7 others and one more OA, dated 11.08.2014). We will keep calling it as Nagpur OA.

2. We have perused the record and proceedings and heard Mr. A.R. Pitale, the learned Advocate for the



Applicants and Mr. N.K. Rajpurohit, the learned Chief Presenting Officer for the Respondents.

3. The Applicants duo in this OA exactly like their counterparts in the Nagpur OA initially obtained Diploma in General Nursing and Mid Wifery (Para 3 of Nagpur order). Then the present Applicants a'la their Nagpur counterparts did Post Basic B.Sc. (Nursing) Course at recognized study centre from Indira Gandhi National Open University (IGNOU). It was the case of the Applicants in Nagpur OA as indeed is the case of the present Applicants that such a qualification from IGNOU was duly recognized by the Indian Nursing Council (Respondent 4 herein). The present Applicants, on the basis of the above qualification did M.Sc. (Nursing) Page 9 of this OA). Same was the case with Nagpur original Applicants (Para 4 of Nagpur order). In addition, the Applicants here as well as there had the backing of long nursing experience.

4. Now, in both the set of OAs i.e. this one and Nagpur OA, the case of the Respondents was that the Applicants were Staff Nurses, and therefore, they could not vie for the posts of tutors. Apparently, the qualification of IGNOU was not recognized by the Respondents. Therefore, the Nagpur Applicants were recalled from the deputation to



the post of Tutors. Here, in fact, the names of the Applicants duo have been omitted from the final seniority list. The Respondents herein have refused to consider the Applicants for the post of Tutor on the same grounds that the Respondents took in Nagpur OAs.

5. The Nagpur Bench of this Tribunal considered the rival submissions and held in Paras 9 and 10 as follows :

“9. What can be gathered from the above is that only on the ground that the applicants held the qualification of Post Basic B.Sc. (Nursing) from IGNOU, they were considered not fit for the post of Tutor/Clinical Instructor. This seems to have been done by ignoring the fact that the applicants had acquired M.Sc. (Nursing) qualification on 8.8.2012 and that too from the recognized university. It is not the case that post graduate qualification from the recognized university possessed by the applicants was not known to the respondent Nos. 2 & 3. If the candidate holds post graduate degree as provided in the rules, the question of probing into qualification of such candidate acquired at



graduate level, does not arise. Masters Degree in Nursing obtained by the applicants from the recognized university being the requisite qualification as per Maharashtra Nursing Council Rules, 1971, disqualifying such a candidate on the ground that the degree at graduate level obtained by them was not from the recognized university, in no circumstances can be justified. Put is differently, moment the candidate produces Masters Degree and if it is from the recognized university, further probe into his acquiring degree at graduate level shall be an unwarranted exercise and in complete breach of Maharashtra Nursing Council Rules, 1971.

10. For the reasons aforesaid, the repatriation of the applicants vide communications dated 22.2.2013 and 5.3.2013 merely on the ground that the Post Basic B.Sc. (Nursing) qualification obtained by them from IGNOU is not requisite qualification necessary for the post of Tutor/Clinical Instructor is liable to be quashed and set aside. Accordingly the OAs succeed."

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6. We have absolutely no difficulty in following the Nagpur Bench order and endorsing the reasons that went into the making thereof. We uphold this OA and rejecting the case of the Respondents make the following order.

7. The Applicants are held eligible and entitled to being considered for appointment to the posts of the Tutors. The Respondents are directed to act in accordance herewith and take all steps necessary including the names of the Applicants being included in the final seniority list. Compliance within two weeks from today. The Respondents shall ensure in every way that no prejudice is caused to the Applicants due to the impugned erroneous approach of the Respondents.

8. The Original Application is allowed in the above terms with no order as to costs.

Sd/-
(R.B. Malik)
Member-J
14.06.2016

Sd/-
(Rajiv Agarwal)
Vice-Chairman
14.06.2016

Mumbai
Date : 14.06.2016
Dictation taken by :
S.K. Wamanse.