

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,

NAGPUR BENCH, NAGPUR.

ORIGINAL APPLICATION NO.589/2013.

Kishorilal Sukhram Rahangdale,
Aged about 47 years,
Occ-Service,
R/o Central Prison, Amravati.

Applicant.

-Versus-

1. The State of Maharashtra,
Through its Secretary,
Home Department,
Mantralaya, Mumbai-32.
2. The Inspector General of Prisons,
(M.S.), Pune.
3. The Dy. Inspector General of Prisons,
East Region, Wardha Road, Nagpur.
4. The Superintendent,
Central Prison, Amravati.

Respondents.

Shri P. K. Mishra, the Ld. Advocate for the applicant.
Smt. M.A. Barabde, Ld. P.O. for the respondents.

**Coram:- B. Majumdar, Vice-Chairman and
Justice M.N. Gilani, Member (J).**

Dated:- 2nd September, 2014.

Order

Per: Member (J)

The short question that arises in this O.A. is:
whether the applicant is entitled for promotion to the post of

Compounder instead to the post of Havildar to which he has been actually promoted.

2. In the year 1991, the applicant was appointed as Sepoy in the Administrative Wing of the respondents. Later on, he came to be deputed to work as Male Nurse in the Medical Wing. In the year 1995, he was designated as Male Nurse (Paricharak). From the year 1993 to 2005, the applicant discharged his duty with devotion. He was performing duties like dispensation of medicines as per the prescription of the doctor, to prick and administer Intra-muscular and intravenous injections., dressing the injured, to maintain bed head tickets, to give first aid to casualty patients etc. Thus, as per Male Nurse, he gained sufficient experience in Medical Branch. He also underwent trainings relating to control of diseases. Because of his hard work, he was awarded with the letter of appreciation. With effect from 4.4.2013, the applicant came to be promoted to the post of Havildar (on Executive Wing) and posted in the Central Prison, Amravati. Aggrieved by this order of promotion to the post of Havildar, the applicant approached this Tribunal. In a nutshell, his case is that because of his continuous service in the Medical Wing, he became entitled

to be promoted to the post of Compounder, which carries higher pay scale than the scale admissible to the post of Havildar.

3. The respondents filed affidavit in reply and denied the claim of the applicant on the following grounds. Staffing pattern is as per Maharashtra Prison Manual, 1979. The recruitment of the staff is governed by the provisions contained in the Prison Manual. Broadly, there are three branches viz. (i) Executive Branch, (ii) Medical Branch and (iii) Technical Branch. The applicant was appointed as Sepoy in the Executive Branch w.e.f. 16.12.1991 in the pay scale of Rs.775-1150. While on deputation as Nurse, he was being given pay scale of Rs. 3050-75-3950-80-4590. He started getting this pay scale w.e.f. 5.12.2005. His appointment was purely on temporary basis. With effect from 26.2.2004, he was granted time bound promotion and was placed in the pay scale of Rs. 4000-100-6000. The applicant is not qualified to be appointed to the post of Compounder so also his case is not supported by the Chief Medical Officer of the Prison and the Civil Surgeon of the District. It is, therefore, stated that, only on account of he having had worked as Male Nurse that too purely on

temporary basis, cannot get right to be promoted to the post of Compounder.

4. The order dated 5.12.2005 depicts that one Shri Kishor Namdeo More serving as Male Nurse (Paricharak) was removed from the said post and was reappointed as Sepoy. In the said order, it is mentioned that the applicant who was holding the post of Sepoy, is temporarily appointed as Male Nurse (Paricharak). The document at page 3 (B) shows that because of retirement of two officials in the Medical Branch, temporary charge of Compounder (Mishrak) was given to the applicant. However, it is not known how long he continued to hold this charge.

5. In the Recruitment Rules, there is a provision for appointment of Compounder, same being relevant is reproduced below:

Appointment to the post shall be made by nomination from amongst the candidates who:--

- (i) have passed the S.S.C. or other equivalent examination.
- (ii) unless already in the service of the Govt. of Maharashtra are not more than 25 years of age at the time of appointment.
- (iii) have passed :-

- (a) the examination of practicing Pharmacists and/or Pharmacists Training Course conducted by the recognized institutions
- (b) hold diploma or degree in Pharmacy of a recognized University; and
- (iv) have registered their names with the Bombay State Pharmacy Council.

Provided that preference shall be given to a candidate having sufficient experience.

Provided further that the upper age limit may be relaxed in favour of candidates having sufficient qualifications and/or experience.

2. A person appointed by nomination or by promotion shall be required to pass the examination in Marathi and Hindi languages according to the prescribed rules, unless he has already passed them.

Note:- In case suitable candidates with the requisite qualifications are not available for appointment to the post, Nursing Orderlies in the Prison Hospitals may be appointed as Compounders provided the Chief Medical Officer of the Prison and the Civil Surgeon of the District concerned certify their suitability for the posts.

6. In the affidavit in reply filed on 2.4.2014 (Page 27), it is categorically stated that the applicant did not fulfill the eligibility criteria. He being from the Executive Branch, has been

rightly promoted to the post of Havildar and he has also joined the said post. It is crystal clear from the Recruitment Rules that the appointment to the post of Compounder shall be made only by nomination from amongst the candidates who possess requisite qualifications. In the event, suitable candidates are not available for appointment to the said post, then only Nursing Orderly in the Prison Hospitals may be appointed as Compounder. This is subject to rider. Nursing Orderly can only be appointed in the above circumstances provided the Chief Medical Officer of the Prison and the Civil Surgeon of the District concerned certify their suitability for the post. The applicant has not demonstrated that the posts of Compounder were advertised and suitable candidates were not available. He also did not demonstrate that his candidature has been recommended by the Chief Medical Officer of the Prison and the Civil Surgeon of the District Hospital, Amravati. In absence of this, claim of the applicant for appointment to the post of Compounder is nothing but an exercise in futility. There is no provision brought to our notice that merely because Sepoy who on deputation / temporary basis was posted in Medical Branch, as Male Nurse gets right to be appointed to the post of Compounder.

7. The order dated 15.2.1991 (Annexure A-3) issued by Deputy Inspector General of Prisons, Nagpur (R.3) is placed on record. It is in respect of one Ashok Ramchandra Jadhao and Vasant Rajaram Ambedkar. Shri Vasant Rajaram Ambedkar, Male Nurse (Paricharak) was promoted to the post of Compounder (Mishrak) and at his place, Shri Ashok Ramchandra Jadhao, Sepoy was appointed as Male Nurse (Paricharak). The order further spells out that one Shri Bhaudas Sakharwade, Sepoy, District Prison, Bhandara is transferred to Chandrapur and appointed as Male Nurse (Paricharak) in place of one Dilip Wasnik. It is further clarified that the appointment of Shri Bhaudas Sakharwade as Male Nurse (Paricharak) is purely on temporary basis. Frankly speaking, the aforesaid order does not support the case of the applicant in any manner. It is not denied by the respondents that the officials serving as Sepoy in Executive Branch were being appointed to the post of Male Nurse (Paricharak) on temporary basis. It does not mean that such Male Nurse (Paricharak) becomes entitled to be appointed as Compounder. As has been discussed earlier, this can only be possible in case of non availability of the suitable candidates and then Nursing Orderly in

the Prison Hospitals getting recommendation from the Chief Medical Officer of the Prison and the Civil Surgeon of the District.

8. For the reasons afore-stated, we do not find any substance in this O.A. Accordingly, it is dismissed with no order as to costs.

(Justice M.N. Gilani)
Member (J)

(B. Majumdar)
Vice-Chairman

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