

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,

NAGPUR BENCH, NAGPUR

ORIGINAL APPLICATION NO.714/2013. (D.B.)

Ramesh Raghoji Parse,
Aged about 47 years,
Occ-Service,
R/o Rambhau Mahalinagar, Plot No.247,
Ring Road, Hudkeshwar Road,
Nagpur-34.

Applicant.

-Versus-

- 1) The State of Maharashtra,
Through its Secretary,
Department of Medical Education and Research,
Mantralaya, Mumbai-400 032.
- 2) The Dean,
Govt. Medical College & Hospital, Nagpur.
- 3) The President,
Selection Committee,
Govt. Medical College & Hospital, Nagpur.
- 4) Sanjay Kalicharan Wasnik,
Aged about Major,
Occ-Service,
R/o Govt. Medical College & Hospital, Nagpur.
- 5) Directorate of Medical Education & Research,
St. Georges Hospital Compound,
Mumbai-1.

Respondents

Shri D.T. Shinde, the learned counsel for the applicant.
Shri H.K. Pande, the learned P.O. for respondent Nos. 1 to 3 & 5.
None appeared for respondent No.4.

**Coram:-Shri Shree Bhagwan, Member (A) and
Shri A.D. Karanjkar, Member (J)**

JUDGMENT

(Delivered on this 29th day of March 2019.)

Per:- Member (A)

Heard Shri D.T. Shinde, the learned counsel for the applicant and Shri H.K. Pande, the learned P.O. for the respondent Nos. 1 to 3 and 5. None appeared for respondent No.4.

2. The applicant is an attendant working with the respondent No.2 i.e. Govt. Medical College & Hospital, Nagpur since 26.12.2002 and is stated to be the seniormost in the seniority list maintained by the respondent authorities. He is at Sr. No. 149. Service record of the applicant is clean and unblemished and no departmental enquiry is contemplated against him. He states that he is most eligible to be promoted to the post of Sanitary Inspector, for which he has passed the Diploma of Sanitary Inspector in 2009 and that he belongs to NT category.

3. The applicant has directly forwarded his application for the promotion to the post of Sanitary Inspector to the respondent No.1. But the respondent No.4, instead of giving promotion to the

applicant, was promoted to the said post., though the respondent No.4 is junior to the applicant by three years. Being aggrieved by the said order, the applicant has preferred this O.A. for his redressal.

4. In support of the claim of the applicant for the promotional post, the applicant has filed number of documents to prove his case. He prays that he be given promotion to the post of Sanitary Inspector by quashing and setting aside the order dated 22.4.2010 passed by respondent No.2 and direct the respondents to promote him with all monetary and terminal benefits.

5. The respondent No.2 has filed an affidavit in reply on 27.3.2014 and refuted all the contentions raised by the applicant in his O.A. in toto. Respondents submit that the respondent No.4 has submitted caste validity certificate whereas the applicant did not produce it and hence the applicant is not entitled for the promotion as claimed by him.

6. The applicant has also filed his rejoinder on 7.3.2019 and has tried to demonstrate his case before this Tribunal and prayed that this Tribunal be pleased to grant him promotion to the said post.

7. We have perused the seniority list as on 1.1.2010 (A.17). The applicant is at Sr. No.149 and was recruited on 27.12.2002. However, the respondent No.4 was recruited on 20.9.2005 as per Annexure-IV (Page 51). As per the rejoinder filed by the applicant for promotion service period of five years was required for an employee. Since the applicant was recruited on 20.9.2005, he had not completed five years of service as on 1.1.2010 and hence his name was not included in the seniority list as on 1.1.2010. However, as per record (A.3, P.50), it appears that the Dean, Govt. Medical College & Hospital, Nagpur (R.2) had written to the Director of Medical Education and Research, Mumbai vide letter dated 21.4.2009 and admittedly in para No.4, under pressure recommended to promote the respondent No.4 which is an illegal communication / recommendation. Again the D.P.C. meeting has taken place on 22.3.2010. The said respondent No.4 was not in the seniority list as on 1.1.2010 and had not completed five years till the date of D.P.C. meeting, even then his name was recommended bypassing the name of the applicant which is again an illegal step. It also seems that the Chairman of the D.P.C. Dr. (Mrs.) Dipti Dongaonkar i.e. the Dean, Govt. Medical College & Hospital, Nagpur has signed the minutes of D.P.C. on 8.4.2010 (P.33) which clearly

shows that she was not present in the D.P.C. and she did not chair the D.P.C. By these facts, it appears that the Chairman of the D.P.C. i.e. Dr. (Mrs.) Dipti Dongaonkar, the Dean, Govt. Medical College & Hospital, Nagpur did not perform responsibly as Chairman of the D.P.C. This observation needs to be recorded in her service book, since it is very irresponsible action. In view of the facts in foregoing paras, we require to pass the following order:-

ORDER

- (i) The O.A. is allowed in terms of relief clauses (i) and (ii) of the O.A.
- (ii) The D.P.C. meeting dated 22.3.2010 (A-5) and promotion order dated 22.4.2010 (A-4) issued by Dean, Govt. Medical College & Hospital, Nagpur are quashed and set aside in respect of respondent No.4.
- (iii) The respondents are directed to take necessary steps as per the order within a period of three weeks from the date of this order and it be communicated to the applicant in writing.
- (iv) No order as to costs.

(A.D. Karanjkar)
Member (J)

(Shree Bhagwan)
Member (A)

