

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No.1316 of 2023

Snehal Jagan Warthi,
aged about 29 years, Occ. - Staff Nurse, Rural Hospital,
Tah.-Wani, Dist.-Yavatmal.
resident of Nurses quarters, Rural Hospital,
Tah.-Wani, Dist.-Yavatmal.

Applicant.

Versus

1. The State of Maharashtra,
through its Secretary,
Public Health Department and
Medical Education Department,
Mantralaya, Mumbai-32.
2. The Director,
Medical Education and Research,
4th Floor, Govt. Dental College and Hospital Building,
St. Georges Hospital Campus, P. D'mello Road, Fort, Mumbai-1.
3. The Deputy Director,
Health Service, Akola Division, Akola-1.
4. The Medical Superintendent,
Rural Hospital, Tah.-Wani, Dist.-Yavatmal.

Respondents.

Shri Vishal Anand, Advocate for applicant.

Mrs. A.D. Warjekar, learned P.O. for respondents.

**Coram :- Hon'ble Shri M.A. Lovekar,
Member (J).**

Date of Reserving for Judgment : 13th March,2024.

Date of Pronouncement of Judgment : 20th March,2024.

JUDGMENT

(Delivered on this 20th day of March,2024)

Heard Shri Vishal Anand, learned counsel for the applicant and Mrs. A.D. Warjekar, learned P.O. for the respondents.

2. By order dated 04/05/2021 (Annex-A-10) the applicant was appointed as Staff Nurse in Rural Hospital, Wani, District Yavatmal. In response to advertisement dated 10/05/2023 (Annex-A-11) she submitted application for the post of Staff Nurse (Annex-A-12) online on 24/05/2023. By applications at Annex-A- 14 to 17 she requested respondent no.4 to issue "No Objection" Certificate. By order dated 07/11/2023 (Annex-A-20) application of the applicant to issue "No Objection" was rejected. The ground for rejection was as follows –

“संबंधीतांचा अर्ज गारु वणी येथे ०२.०६.२०२३ रोजी प्राप्त झालेला असुन सदर अर्ज हा जाहिरातीनुसार दिनांक २५.०५.२०२३ नंतर केलेला असुन वैद्यकीय अधिक्षक गारु वणी यांनी संदर्भ क्र ०६ नुसार दिनांक १४.०९.२०२३ रोजी या कार्यालयास अर्ज सादर केलेला आहे. सबब परिक्षेस परवानगी देता येणार नाही.”

Hence, this O.A.

3. Principal stand of respondent nos.3 and 4 is that the applicant had applied for issue of "No Objection" after submitting online application to appear for the examination and hence her request was disallowed.

4. Contention of the applicant is that she had submitted first application to obtain “No Objection” on 20/05/2023. There is no material to substantiate this contention. Applications at Annex-A-14 and A-15 made by the applicant both bear the date 26/05/2023. In fact, Annex-A-14 and A-15 appear to be two copies of the same application. In application (Annex-A-16) the applicant refers to the application dated 26/05/2023 made by her. From record it can be inferred that application dated 26/05/2023 was the first application made by the applicant to obtain “No Objection”. Application marked Annex-A-15 bears an endorsement that it was received by the Office on 02/06/2023. Annex-R-I, too, shows that the date of the application made by the applicant was 26/05/2023.

5. In support of the impugned order learned P.O. relied on the contents of the advertisement (Annex-A-11). The advertisement *inter alia* states –

- * Click here for Application form
- * Click here for Qualification
- * Click here for Syllabus
- * Click here for Information Brochure

Rules & Procedure for New Recruitment & Application form & Information Brochure are placed on record. Para 4.8 of the brochure states –

“4.8) Cut off date for the eligibility and age:- The eligibility of the candidate shall be determined and decided for all purposes including for applicability of all these Rules and Regulations by considering the **last date of submissions of online Application Forms as the cut off date**. It is made abundantly clear that if a candidate is found ineligible as on the last date of submission of Application form, in terms of these Rules and Regulations, and if such an ineligible candidate acquires the requisite eligibility after the aforesaid cutoff date (i.e. the last date of submission of online Application form), such subsequent acquisition of eligibility will not make an ineligible, candidate eligible for any purpose whatsoever, much less for the purpose of recruitment.”

Relevant part of para-9 of the Brochure states –

“ 9 CERTIFICATES

Candidate will have to produce following Original Documents at the time of Document Verification Process and at the time of Joining. Candidate will have to submit a set of self-attested photocopies of all original certificates.

(A) XXX

(B) XXX

(C) XXX

(D) XXX

(E) XXX

(F) XXX

(G) XXX

(H) XXX

(I) XXX

(J) For In Service Candidate No Objection Certificate from Respective Authority.

(K) XXX ”

A conjoint consideration of these two paras shows that the applicant should have obtained or at least applied for “No Objection” from her employer before the cut off date. The cut off date in this case was 25/05/2023 which was the last date for submitting application online. The applicant applied for “No Objection” on 26/05/2023. As mentioned earlier, there is no material whatsoever to support her contention that she had applied for “No Objection” on 20/05/2023.

6. Reliance was placed by the P.O. on the Judgment of Hon’ble Bombay High Court in the case of ***Sushila Dilip Mestry Vs. the State of Maharashtra & Ors., 2022 (6) ALL MR 130***. In this case the Petitioner was found to be not holding requisite Certificate on the cut off date and hence she was held to be not eligible. In the instant case the applicant ought to have been vigilant and should have at least applied for “No Objection” from her employer on or before the cut off date. She did not do so. Therefore, the impugned order cannot be faulted. In the result, the O.A. is dismissed with no order as to costs.

(M.A.Lovekar)
Member (J).

Dated :- 20/03/2024.

*dnk.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of P.A. : D.N. Kadam

Court Name : Court of Hon'ble Member (J).

Judgment signed on : 20/03/2024.