

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH**

**ORIGINAL APPLICATION NO 624 OF 2009**

**DISTRICT : SANGLI**

1. Ms Supriya Suresh Kanekar )  
Govt. service as Staff Nurse, )  
Rural Hospital, Chinchani, Wangi )  
Tal-Kadegaon, )  
Dist-Sangli. )  
Add for service of notice, )  
At Post : Mangaon (Kattawadi), )  
Tal – Kudal, Dist-Sindhudurg. )
2. Ms Prajkta Dinkar Rukdikar, )  
Govt. service as Staff Nurse, )  
C.P.R Hospital, Kolhapur. )  
At Post : Kukdi, Tal-Hatkanangle, )  
Dist-Kolhapur. )
3. Mrs Shamala V. Khandekar / )  
Nayakwadi, Occ : Govt. service. )  
service as Staff Nurse )  
C.P.R Hospital, Kolhapur. )

- At Post : Kukdi, Tal-Hatkanangle, )  
Dist-Kolhapur. )  
Kanchanganga Nagar, )  
Near Bank Colony, Vijapur Road, )  
Solapur. )
4. Smt Sunita Vijay Adhav [Wadmare] )  
Occ : Govt. service as Staff Nurse, )  
C.P.R Hospital, Kolhapur. )  
R.S No. 240-1B, Plot No. B-5, )  
Majgaonkar Nagar, Radhanagari Rd )  
Kolhapur. )
5. Ms Usha Sundar Dole, )  
Occ : Govt. service as Staff Nurse )  
Sub District Hospital, )  
Gadhinglaj, Dist-Kolhapur. )  
At Post Dahiphall (Wad), Tal-Kaij, )  
Dist-Beed. )
6. Smt Sunita Vasant Desai )  
Occ : Govt. service as Staff Nurse )  
Rural Hospital, Gaganbawada, )  
Dist-Kolhapur. )  
Add for service of notice. )  
Rural Hospital, Gaganbawada, )  
Dist-Kolhapur. )
7. Ms Archana Bhupal Bhabuje (Patil) )  
Occ : Govt. service as Staff Nurse )  
CPR Hospital, Kolhapur. )  
Plot No. 28, Akshat Bunglow, )

- Siddhbatukeshwar Colony, )  
Chambukhadi, Kolhapur. )
8. Ms Asha Dipak Dabade (Tonpe), )  
Occ : Govt. service as Staff Nurse )  
Rural Hospital, Belanki, Tal-Miraj, )  
Dist-Sangli. )  
Kamla Nivas, Dattasamarth nagar, )  
Behind Khilare Mangal Karyalaya, )  
Shamraonagar, Sangli. )
9. Ms Vaishali Dattatraya Poskar, )  
Occ : Govt. service as Staff Nurse )  
Rural Hospital, Kokrud Taluka, )  
Shirala, Dist-Sangli, )  
At Post Kokrud, Tal-Shirala, )  
Dist-Sangli. )
10. Ms Sultana Ansar Jamadar, )  
Occ : Govt. service as Staff Nurse )  
Rural Hospital, Vita, Tasgaon Road, )  
Tal-Khanapur, Dist-Sangli, )  
Add for service of notice, )  
Rural Hospital, Vita, Tasgaon Road, )  
Tal-Khanapur, Dist-Sangli, )
11. Ms Pratima Rajaram Kamble, )  
Occ : Govt. service as Staff Nurse )  
Rural Hospital, Kokrud, Shirala )  
Dist-Sangli. )  
Add for service of notice, )  
At Post:Bagani, Tal – Walwa, )

- Dist – Sangli. )
12. Ms Rajashri N Salunkhe /Chindage )  
Occ : Govt. service as Staff Nurse )  
CPR Hospital, Kolhapur. )  
Add for service of notice, )  
At Post – Nerli, Tal-Karvir, )  
Dist-Kolhapur. )
13. Ms Manisha Anandrao Sagaonkar )  
Occ : Govt. service as Staff Nurse )  
Rural Hospital, Kokrud, Tal-Shirala )  
Dist : Sangli. )  
Add for servie of notice, )  
At Post : Bilashi, Tal-Shirala, )  
Dist-Sangli. )
14. Ms Jayanti N. Salunkhe (Ranavare) )  
Occ : Govt. service as Staff Nurse )  
Rural Hospital, Malkapur, )  
Dist-Kolhapur. )  
At Post – Shahuwadi, )  
Tal-Shahuwadi, Dist-Kolhapur )
15. Ms Savita Dagdu Patil, )  
Occ : Govt. service as Staff Nurse )  
Sub-District Hospital, Islampur, )  
Dist-Sangli. )  
Add for service of notice, )  
At Post Panumbre-Varun, )  
Tal-Shirala, Dist-Sangli. )
16. Ms Savita Bhimrao Kamble, )

- Occ : Govt. service as Staff Nurse )  
 Rural Hospital, Atpadi, Dist-Sangli, )  
 Add for service of notice )  
 Near S.T Depot, Dattmal, Tasgaon, )  
 Dist-Sangli. )
17. Smt Nandatai Shankar Nakil, )  
 Occ : Govt. service as Staff Nurse )  
 CPR Hospital, Kolhapur. )  
 Add for service of notice )  
 At Post Natole, Tal-Shirala, )  
 Dist-Sangli. )
18. Ms Ajima Abdulbhai Shaikh, )  
 Occ : Govt. service as Staff Nurse )  
 Rural Hospita, Madha, Dist-Solapur )  
 Add for service of notice )  
 154, Mali Galli, Kurduwadi, )  
 Tal-Madha, Dist-Solapur. )
19. Ms Bharati Sitaram Chothe )  
 Occ : Govt. service as Staff Nurse )  
 Rural Hospital, Shirol, Dist-Kolhapur )  
 Add for service of notice )  
 Nurses Quarters, Rural Hospital, )  
 Shirol, Tak-Shirol, Dist-Kolhapur. )
20. Ms Bharti Mohan Potdar, )  
 Occ : Govt. service as Staff Nurse )  
 Rural Hospital, Dattawad, Tal-Shirol )  
 Dist-Kolhapur. )  
 Add for service of notice )

- Nurses Quarters, Rural Hospital, )  
 Dattawad, Tal-Shirol, Dist-Kolhapur)
21. Ms Kusum Maruti Kumbhar )  
 Occ : Govt service as Staff Nurse )  
 Rural Hospital, Dattawad, Tal-Shirol)  
 Dist-Kolhapur. )  
 Add for service of notice )  
 Nurses Quarters, Rural Hospital, )  
 Dattawad, Tal-Shirol, Dist-Kolhapur)...**Applicants**

**Versus**

1. The State of Maharashtra )  
 Through the Principal Secretary, )  
 Public Health Department, )  
 Mantralaya, Mumbai 400 032. )
2. The Director of Health Services, )  
 M.S, Mumbai, having office at )  
 Aarogya Bhavan in the compound )  
 of St. Georges' Hospital Fort, )  
 Mumbai 400 001. )
3. The Dy Director of Health Services, )  
 Pune Circle Office at Main )  
 Administrative Bldg, )  
 Opp Vidhan Bhavan, Pune. )...**Respondents**

Shri A.V Bandiwadekar, learned advocate for the Applicants.

Shri A.J Chougule, learned Presenting Officer for the Respondents.

**CORAM : Shri Rajiv Agarwal (Vice-Chairman)**

**Shri R.B. Malik (Member) (J)**

**DATE : 22.09.2014**

**PER : Shri Rajiv Agarwal (Vice-Chairman)**

**ORDER**

1. Heard Shri A.V Bandiwadekar, learned advocate for the Applicants and Shri A.J Chougule, learned Presenting Officer for the Respondents.

2. This Original Application has been filed by 21 Applicants who were initially appointed as Staff Nurses as bonded candidates and later continued on ad hoc basis. The Applicants are claiming that they are entitled to be given appointment on regular basis in the post of Staff Nurse.

3. The Applicants, on completion of three years course of General Nursing Midwifery (GNM) from Nursing Schools run by Directorate of Medical Education and

Research (D.M.E.R) were posted as Staff Nurse on different dates between 5.7.2004 and 22.1.2007 as bonded candidates. They have continued to work as Staff Nurses till date and are now seeking regularization.

4. Learned Counsel for the Applicants argued that the Applicants are working as Staff Nurses and they are eligible and qualified to be appointed to such post on regular basis. They are getting all service benefits available to regular Government servants. After completion of bond period, the Applicants should have been considered for regular appointment. However, the Respondent no. 3 issued advertisement dated 1.10.2008 calling applications from eligible candidates to fill up 118 posts of Staff Nurses. The bonded candidates were also eligible for appointment. Learned Counsel for the Applicants stated that there were no developments pursuant to the issue of advertisement, though the Applicants have applied for the post of Staff Nurse. Other Health Circles, have in the meanwhile appointed bonded candidates on regular basis. Also, as the Applicants have passed G.N.M courses from D.M.E.R Nursing School, they are not required to pass any examination based by advertisement issued by the Respondents. Such examination is required for only those candidates, who have done Nursing Courses from Schools other than those run by D.M.E.R or Directorate of Health Services. The Respondent no. 3, on the basis of



directions of the Respondent no. 2, decided to constitute Departmental Selection Committee to formally regularize the services of certain bonded candidates. Learned Counsel for the Applicants cited various instances, where services of bonded Staff Nurses have been regularized.

5. Learned Presenting Officer (P.O) argued on behalf of the Respondents that the initial appointment of a total of 74 candidates including 21 Applicants was not as bonded candidates. They were appointed on ad hoc basis and later converted illegally into bonded candidates. The Respondent no. 3 had issued an advertisement on 1.10.2008 to fill up 118 posts of Staff Nurse and the Applicants, who were working as bonded candidates could also apply for regular appointment on these posts. The Applicants were appointed for a period of two years only and have no claim for regularization. Such regularization is not permitted under the recruitment rules. In fact, the appointment order itself mentioned that the candidates will have to pass Entrance Test for regularization of their services. Learned Presenting Officer contended that only for candidates belonging to backward classes, Government had taken a policy decision to recruit them as Staff Nurse as bonded candidate, if such candidates have passed G.N.M course from Government affiliated Nursing School vide circular dated 10.9.2003. Learned Presenting Officer stated that that the Applicants were appointed as Staff Nurse as

bonded candidates for two years. After that, their services have been continued till appointment of regularly selected candidates are available. However, the Applicants failed in the selection process and are not entitled for regularization.

6. From the details of the Applicants, we find that out of 21 Applicants 10 candidates belong to open category and the rest belong to backward classes. They are all working in Kolhapur Health Circle, under the control of Deputy Director of Health Services, Kolhapur, who is not a party to the present proceedings. By letter dated 10.9.2003 (page 40 of the Paper Book), the Respondent no. 2 informed Deputy Directors to give appointment to Nurses belonging to backward classes and who passed out from Nursing Schools attached to Government Medical Colleges (i.e. D.M.E.R) as bonded candidates. From the plain reading of this letter, it is clear that the candidates who passed out from Nursing Schools under D.H.S only were eligible to be appointed as bonded candidates for two years. Only for candidates belonging to backward classes an exception was made and candidates who passed out from institutions run by D.M.E.R were also appointed as bonded candidates. This is logical as the candidates who are selected for Nursing courses have to execute a bond that they will serve the Government for two years. So the candidates who passed out from Nursing Schools affiliated to Government

Hospitals under D.H.S were required to serve as bonded candidates under D.H.S. By letter dated 10.9.2003, this condition was relaxed for backward classes candidate who completed G.N.M courses from Nursing School attached to Government Medical Colleges under D.M.E.R to fill the backlog. This might have been Government policy, but the fact that some of the Applicants, who belonged to open category, were also appointed as bonded candidates in Government Hospitals though they passed G.N.M courses from Nursing school under D.M.E.R, cannot be termed illegal. The question which is important is what are the relevant rules regarding continuation of service of bonded candidates after the period of bond is over. Applicant no. 1 Smt Supriya S. Kanekar was appointed as bonded candidate by the Respondent no. 2, by order dated 22.9.2003. Condition no. 1 mentions clearly that the appointment was as a bonded candidate for a period of two years. Condition no. 9 reads:

“ ९) शासकीय नियमाप्रमाणे आवश्यक असणारी सेवा प्रवेश परीक्षा त्यांना उत्तीर्ण व्हावी लागेल.”

Though it is not clearly mentioned in the appointment letter, this condition make it mandatory to pass 'entrance test' if a candidate wanted to continue in service beyond the bond period. From the additional affidavit filed by the Respondents on 22.8.2014, it is seen that pursuant to advertisement dated 1.8.2008, for 118 posts of Staff

Nurses, a total of 694 candidates applied. Written examination was conducted on 7.2.2010 and 14.2.2010. The result was declared on the web site of the Respondent no. 1 and none of the Applicants was selected. The claim of the Applicants in Para 6.6 of the Original Application in this regard is obviously not based on facts. It is thus clear that in terms of the appointment letter, issued to the Applicant no. 1, she is not eligible for regular appointment. The appointment letters of other Applicants have similar conditions and the same conclusion will apply to them as well.

7. The Applicants have enclosed copies of documents showing that the service books of some of the Applicants have been opened and they have been asked to fill various forms like form of nomination of D.C.R.G etc. However, these documents do not prove that the services of the Applicants were regularized. As the Applicants have continued in Government service after bond period was over, they are getting facilities which are given even to temporary employees. Nothing more can be read into these documents. The Applicants have filed copies of the minutes of the meeting dated 21.4.2005 held in the office of the Respondent no. 2. We do not find any mention that the services of the bonded candidates are to be regularized after bond period is over in the aforesaid minutes. The Applicants have filed copy of letter dated 12.11.2007 in respect of Smt Sarika S.

Mehta, Smt Y.B. Dhamapurkar dated 29.3.2008, whose services were regularized after their bond period was over. The Respondent no. 3 has stated in the affidavit in reply dated 11.9.2009 that services of some bonded candidates were regularized by the Regional Selection Committee, Kolhapur, by following proper selection procedure. There is a letter dated 10.9.2003 issued by the Respondent no. 2 that the bonded candidates who successfully complete their term can be given regular appointment. This letter is not issued based on any Government decision enunciated in a G.R or Government circular. In fact, Government has issued circular dated 19.11.2003 and 10.10.2005. The latter circular makes it clear that:

“ अत्यंत तातडीची गरज म्हणून तात्पुरत्या/अस्थायी नियुक्त्या कराव्या लागल्यावर त्या विहित वेळेत संपुष्टात आणण्याची दक्षता घ्यावी.”

Reference is also made to Supreme Court judgment in A. Umarani Vs. Registrar, Cooperative Societies, Tamil Nadu and other cases. The letter dated 10.9.2003 issued by the Respondent no. 2 is bereft of any legal authority and action cannot be taken on the basis of that letter. We do not find that the Applicants have made out any case, which will justify their claim that they are entitled to be regularized in service. Their initial appointment orders made it very clear that they were appointed as bonded candidates for two years. It is also made clear that if they wanted to continue in service after the bond period was

over, they were required to pass in the Entrance test for regular appointment. The Applicants were given such opportunity and they failed. They are relying on two arguments that the Respondents are treating them as regular employees by opening Service Book etc. We do not find any merit in this argument. The other argument is that some bonded candidates were regularized in the past. We find that such regularization, even if done without recourse to Selection Committee is not in accordance with rules. Such precedents would not entitle the Applicants to be given benefit of regularization of their services.

8. Having regard to the aforesaid facts and circumstances of the case, the Original Application stands dismissed with no order as to costs.

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

**Sd/-**  
**(Rajiv Agarwal )**  
**Vice-Chairman**

**Place : Mumbai**  
**Date : 22.09.2014**  
**Dictation taken by : A.K. Nair.**