IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI

ORIGINAL APPLICATION NO.1358 OF 2023

)

Smt. Jyoti Vijay Madane.

DISTRICT: NAGPUR Sub.:- Selection

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Age:	33 Yrs, Occu.: Service,)
R/o.	Pride Residency, Aradhana Nagar,)
Digho	ori, Nagpur.)Applicant
	Versus	
1.	The State of Maharashtra. Through its Secretary, Medical Education & Drugs Dept., Mantralaya, Mantralaya, Mumbai.)))
2.	Director of Medical Education and Research, Having Office at St. Georges Hospital Campus, P.D. Mello Road, Fort, Mumbai – 1.)))
3.	College of Nursing, Government Medical College, Nagpur, (Through its Principal), having office At 43GW + J2F, Wanjari Nagar, Nagpur.	
4.	Shri Eknath B. Bansode. Age: Adult, Occu.: Service, Working as Sub-District Hospital, Manmad, District: Nashik.)))Respondents

CORAM: Smt. Justice Mridula Bhatkar, Chairperson Debashish Chakrabarty, Member-A

Mrs. K.S. Gaikwad, Presenting Officer for Respondents.

Shri K.R. Jagdale, Advocate for Respondent No.4.

Shri L.S. Deshmukh, Advocate for Applicant.

DATE : 23.11.2023

JUDGMENT

- 1. The Applicant is working as Staff Nurse in Government Medical College at Nagpur under the supervision of Respondent No.2 Director of Medical Education and Research, Mumbai. She belongs to De-notified Tribe- VJ(A). She seeks directions to Respondent Nos.2 and 3 to select her against De-notified Tribe VJ(A) Seat for admission to 2 Year Degree Course of M.Sc. (Nursing) in College of Nursing; Government Medical College, Nagpur.
- 2. The entire case of the Applicant is based on a proposition that In-Service Candidates from DMER can be shifted to DHS and from DHS can be shifted to DMER if In Service Candidates are not available in the respective Reserved Categories (1) to (7).
- 3. Information Brochure and Application Form published by the Directorate of Medical Education & Research, Mumbai for current Academic Year of 2023-2024 is placed before us at Exb.'C'. Paragraph 6 pertains to 'Reservation'. Stipulation 6.1.4 pertains to filling-up of Seats in the Reserved Category (1) to (7) and if they remain vacant, then how they are to be filled-up by shifting of In-Service Candidates according to their 'Inter Group Merit'. Stipulation 6.1.4 does not mention about shifting of In-Service Candidates from DMER to DHS and DHS to DMER but it only speaks about 'Inter Group Merit' for shifting of In-Service Candidates of the Reserved Category (1) to (7). We have considered the Information Brochure and Application Form for current Academic Year 2023-2024 for admission to 2 Years Degree Course of M.Sc (Nursing) and Post Basic B.Sc (Nursing). We have also considered the Affidavit-in-Reply filed by Smt. Archana Milind Naware, Superintendent of Nursing Services on 03.11.2023.

- 4. The learned Advocate for the Applicant relies on Stipulation 6.1.4, which we reproduce for better understanding as under:-
 - **6.1.4**:- If the seats in the reserved category (1) to (7) remain vacant, shall be filled among the remaining reserved category according to their inter-Group-merit. If the seats still remain vacant, then these seats will be filled by Inter-se-merit from the candidate from the General category."
- 5. The learned Advocate for the Applicant submits that if In-Service Candidates of DMER or DHS from Reserved Categories (1) to (7) are not available, then shifting of In-Service Candidates is to be considered on ground of long standing practice which must prevail in absence of any rules of the Medical Education & Drugs Department. The objective must be to secure reservation for all Seats in Reserved Categories (1) to (7).
- 6. In the present case, no seat for VJ(A) has been reserved from the 10 Seats of DMER for which the Applicant had submitted her Application Form. However, one Seat for VJ(A) has been reserved from the 10 Seats of DHS. Hence, Applicant wanted shifting from DMER to the seat reserved for VJ(A) in DHS. The Stipulation 6.1.4 facilitates the shifting of In-Service Candidates according to their 'Inter Group Merit' as per following clusters formed from the Reserved Categories (1) to (7):-

"Group-1.

a) SC and Buddhist convert b) ST (including those living outside the specified area)

Group-2.

(a) VJ-A

b) NT-B

Group-3.

(a) NT-C

b) NT-D

c) OBC Including SBC

As we understand shifting of In-Service Candidates is permitted within that particular Institution; that is only within DMER and DHS as per 'Inter Group Merit'. Stipulation 6.14 does not speak about the shifting of In-Service Candidates from Reserved Category (1) to (7) based on 'Inter

Group Merit' from DMER to DHS or DHS to DMER. This fact can be fortified if Clause 4.1 from Medical Education & Drugs Department Circular dated 07.06.2014 is taken into account, which states as follows:-

"परिचर्या शिक्षण संस्था, मुंबई येथे एम.एससी (नर्सिंग) अभ्यासक्रमास एकूण २५ जागा मंजूर आहेत. यातील १० जागा वैद्यकीय शिक्षण व संशोधन, मुंबई, १० जागा आरोज्य सेवा संचलनालय, मुंबई सेवाअंतर्गत उमेदवारांना व उर्वरित ५ जागा महाराष्ट्र राज्यातील इतर (खाजगी) उमेदवारांना वाटप करण्यात येईल.

तसेच पी.बी.बी.एस्सी (निर्सेंग) अभ्यासक्रमास एकूण ३० जागा मंजूर आहेत. यातील १० जागा वैद्यकीय शिक्षण व संशोधन, मुंबई, १० जागा आरोग्य सेवा संचालनालय, मुंबई सेवांतर्गत उमेदवारांना व उर्वरित १० जागा महाराष्ट्र राज्यातील इतर (खाजगी) उमेदवारांना गुणवत्तेनुसार प्रवेश देण्यात यावेत. सदर प्रवेश देताना संविधानिक आरक्षणाची अंमलबजावणी करण्यात यावी.''

The Circular dated 07.06.2014 was regarding cancellation of Common Entrance Examination for admission to Post Basic B.Sc (Nursing) and M.Sc. (Nursing).

7. The total sanctioned seats for 2 Year Degree Course of M.Sc. (Nursing) as per the Information Brochure and Application Form for current Academic Year 2023-24 is 60. Out of this (a) 25 Seats are sanctioned for College of Nursing, Government Medical College, Nagpur; (b) 25 Seats are sanctioned for Institute of Nursing Education, Mumbai and (c) 10 Seats are sanctioned for Maharashtra Institute of Mental Health, Pune. The distribution of 25 Seats as per Medical Education & Drugs Department Corrigendum dated 30.08.2023 for M.Sc. (Nursing) at College of Nursing Government Medical College, Nagpur is as under:-

	Available seats	Reservation Category 50%						Total reservation	Open Category 50%				Total Open Seats	
		SC	ST	VJ(A)	NT-B	NT-C	NT-D	OBC	50%	Open 34%	EWS 10%	PWD 5%	Orphan 1%	50%
		13%	7%	3%	2.5%	3.5%	2%	19%						
	25	3.25%	1.75%	0.75%	0,63%	0.88%	0.5%	4.75%		8.5%	2.5%	1.25%	0.25	
DMER	10	1	1	0	0	1	0	2	5	3	1	0	1	5
DHS	10	1	1	1	0	0	0	2	5	3	1	1	0	5
Private	05	0	1	0	0	1	0	1	3	2	0	0	0	2
Total	25	2	3	1	0	2	0	5	13	8	2	1	1	12

- 8. Thus, there was specific allotment of seats in Reserved Categories (1) to (7) at Institution level for both DMER and DHS. We have not come across any provision that in case, In-Service Candidates in respective Reserved Categories (1) to (7) were not available; then it is permissible to allow shifting of In-Service Candidates from DMER to DHS or DHS to DMER. The Stipulation 6.1.4 even states that if seats in Reserved Category (1) to (7) remain vacant, then that is to be filled by Inter-se-Merit' of the In-Service Candidates from 'General Category'. It is not stated in Stipulation 6.14 that such seats in Reserved Category (1) to (7) are to be filled by shifting of In-Service Candidates from one Institution to other i.e. DMER to DHS and DHS to DMER.
- 9. Under such circumstances, it is difficult to conclude that the case of the Applicant is fit to be considered for admission to 2 Years Degree Course of M.Sc. (Nursing) in College of Nursing Government Medical College, Nagpur as there is no reservation for VJ(A) in the 10 seats sanctioned for DMER in College of Nursing, Government Medical College, Nagpur. Vacant seats can be filled only from among the In-Service Candidates in Reserved Category (1) to (7) according to their 'Inter Se Group' within DMER and DHS which are separate Institutions. Hence, nothing remains in the OA. The Original Application therefore stands dismissed with no order as to costs.

Sd/-(DEBASHISH CHAKRABARTY) Member-A

Sd/-(MRIDULA BHATKAR, J.) Chairperson

Mumbai

Date: 23.11.2023 Dictation taken by: S.K. Wamanse.

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