

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 520 of 2018 (DB)

Mr. Sanjay Sheshrao Patil,
Aged about 57 years, Occ. Service,
R/o Indraprastha Layout, Plot No. 10,
Near Swavalambi Nagar,
Bhamti Road, Nagpur (M.S.).

Applicant.

Versus

- 1) The State of Maharashtra,
through its Principal Secretary,
Medical Education & Drugs Department,
Mantralaya, Mumbai-32.
- 2) The Director,
Medical Education & Research St. George Hospital Compound
4th floor, Government Dental College Building,
near CST, Mumbai.
- 3) The Dean,
Government Medical College,
Nagpur.
- 4) Registrar,
Maharashtra University of Health Science,
Nashik.

Respondents.

Shri S.C. Deshmukh, Advocate for the applicant.

Shri S.A. Deo, C.P.O. for the respondents.

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

JUDGMENT**Per : Anand Karanjkar : Member (J).****(Delivered on this 30th day of April,2019)**

Heard Shri S.C. Deshmukh, learned counsel for the applicant and Shri S.A. Deo, learned CPO for the respondents.

2. The applicant was appointed as male staff Nurse on 17/02/1986. Later on the applicant was promoted as Tutor vide order dated 23/11/1995. The applicant was transferred to various places and thereafter in the year 2000 the applicant was transferred to Training College of Nursing annexed to Government Medical College, Nagpur and since that date the applicant is working at Nagpur.

3. It is case of the applicant that vide G.R. dated 25/11/2005 decision was taken to upgrade the three years GNN course to four years degree course and consequently the applicant was appointed as Teacher in the Nursing College. It is submitted that vide order dated 15/07/2013 the applicant was appointed as Associate Professor w.e.f. 17/08/2012. It is contention of the applicant that he was serving as Associate Professor in the Nursing College which was a giving education of a degree course, therefore, he was entitled to benefit of Government G.Rs. dated 30/04/2010, 28/07/2014 and 05/03/2015.

4. It is submission of the applicant that decision was taken by the Government vide G.R. dated 30/04/2010 to extend the age of retirement from 58 to 62 and as per this the teaching staff of the Medical Colleges were entitled to serve till completion of 62 years. It is further submitted that vide G.R. dated 28/07/2014 the age of retirement was extended from 62 to 63 and vide G.R. dated 05/03/2015 it was extended from 63 to 64. It is submission of the applicant that the applicant was performing his duty as Associate Professor in the Nursing College. Consequently the applicant is entitled for benefit of these Government G.Rs. and he had right to serve till completion of 64 years. It is submitted that the respondent no.3 all of a sudden issued notice of retirement dated 01/07/2017 and informed the applicant that he would retire on completion of age 58 years and being aggrieved by this, the applicant has filed the present O.A.

5. It is submission of the applicant that in O.A.No. 72/2011 decided by the MAT, Mumbai on 25/07/2014, in O.As.117/2013,1108/2013 decided by the MAT, Mumbai on 20/07/2015 the Division Bench has allowed the claims in similar situation. It is also submitted that in O.A.Nos. 74/2015, 78/2015 by order dated 21/10/2016 relief is granted in similar situation. The learned counsel for the applicant has also placed reliance on the

order in O.A.No. 53/2017 and the Judgment delivered by the Hon'ble High Court, Bench at Aurangabad in Writ Petition No.7440/2015. It is submitted that as the applicant is also a Teacher in the College and therefore provisions of the Maharashtra Health University Act are applicable to him and therefore he is also governed by the G.Rs. dated 30/04/2010, 28/07/2014 and 05/03/2015. It is submission of the applicant that as the benefits of the G.R. are not given to him, therefore grave prejudice is caused to the applicant.

6. The respondent nos. 1 to 3 have submitted their reply which is at page no.131 and submitted that the applicant was never appointed as Associate Professor after following the recruitment rules. It is submitted that the applicant was promoted as Tutor and he was posted at General Hospital, Yavamtal on 08/12/1995. Thereafter, he was transferred as a Tutor to General Medical College, Nagpur in the month of May,2000. It is submission of the respondents that the applicant was never appointed on the post of Lecturer or Associate Professor in any College. It is submitted that the applicant was never appointed to teach in the Medical College, but he was connected with the Nursing School and thereafter to the Nursing College which are annexed to the General Medical College. It is submitted that as the diploma course of nursing was operated to degree course and therefore it was necessary to fill 38 posts and

therefore as an arrangement the applicant was temporarily appointed to work as Associate Professor. It is submitted that the directions are issued by the Government to prescribe the procedure for filling the post of the teaching staff and other members of the Nursing Colleges. It is submitted that the recruitment rules and procedure for the selection is yet not finalized and therefore the applicant cannot claim any relief in this background.

7. So far as the decisions on which reliance is placed by the applicant, it is submitted that in all the matters the respective applicants/ petitioners were appointed as a Member of teaching staff of the Government Medical Colleges and in two matters were appointed as Librarian and their duties were in the respective Medical Colleges. It is submitted that the applicant was never appointed as Lecturer or Associate Professor in the Medical College and consequently no relief can be granted to the applicant. The applicant has submitted rejoinder. It is also replied by the respondents. The applicant also filed the additional affidavit.

8. We have gone through the decisions on which reliance is placed by the applicant. So far as the O.A. 72/2011 is concerned, the applicant in that matter was appointed by the MPSC as Lecturer in the Government Ayurvedic College and it was her duty to teach the Students of MBBS 1st year and 2nd year. In O.As.117/2013 &

1108/2013 the applicants were working as Librarian in the R.A. Podar Medical Ayurvedic College, Worli, Mumbai and Government Dental College and Hospital, Mumbai. In the O.A.74/2015 the applicant was appointed as Assistant Professor (Statistics) in Government Medical College, Ambajogai and in O.A. 78/2015 the applicant was Assistant Professor of Statistics and Demography appointed in Ambajogai Medical College. In O.A. 53/2017 the applicant was appointed as Teacher in Statistics in the Government Medical College, Nagpur. Thus it seems that the decision on which reliance is placed by the applicant, all the applicants were appointed on the establishment of the respective Government Medical Colleges. In the present case, the applicant was never appointed on the establishment of Government Colleges. On perusal of the order dated 15/07/2013 at Annex-A-8, it seems that in the appointment order it is specifically mentioned that the applicant was appointed as Associate Professor and appointment was temporarily. The Indian Nursing Council has issued the guidelines which are at Annex-A-23. On page no.164 Academic Notification No.28/2015 dated 31/08/2015 is filed and this Notification came in force w.e.f. 1st September,2015. The qualification and experience of the Nursing Teacher's for under graduate courses are also laid down and desired qualification for the post of Associate Professor was Ph.D. + five years teaching experience in nursing education after M.Sc. nursing of which at least three years shall be as

a Lecturer. Direction No. 01/2017 is issued which laid down the procedure for appointment and approval of Principals, Deans, Directors and recognition of Post Graduate Teachers etc. It is mentioned that as per Clause-U of Section 27 of the Act, the Management Council of the University may prescribe by statutes the procedure of appointment of Teachers, Officers and other employees in all Institutions and Colleges affiliated to the University and the terms and the conditions of their services and as per Sub-Section(3) of Section 61 of the Act, the University may prescribe the Selection Committee and mode of appointment for Principals, Teachers and other employees. It is important to note that till today the rules are not framed by the Government regarding recruitment and appointment of the Principal, Vice Principal and the teaching staff of the Government Nursing Colleges. It is important to note that the G.Rs. dated 30/04/2010, 28/07/2014 and 05/03/2015 are specifically made applicable to the Directors, Joint Directors working in the Directorate of Medical Education and Research and the Dean, Professors, Associate Professors & Assistant Professors on the establishment of Government Medical, Dental and Ayurvedic Colleges. It is rightly pointed by the respondent nos. 1&2 that the applicant was never appointed in any Government Medical College or Dental College or Ayurvedic College. On the contrary the appointment of the applicant was only arrangement and he was

temporarily posted to discharge the duty. The applicant was never firmly promoted on the post of Associate Professor. Under these circumstances the applicant is not entitled to claim benefit of all these G.Rs. We have already discussed that the decisions on which the reliance is placed, are not applicable to the case of the applicant, because, appointment of the applicant was temporary and it was not as per the recruitment rules. It must be mentioned here that the applicant was not holding the qualification to be appointed as Associate Professor as per the UGC norms. We are of the view that there is no substance in the application. Hence, the following order –

ORDER

The O.A. stands dismissed. No order as to costs.

(Anand Karanjkar)
Member(J).

(Shree Bhagwan)
Member (A).

Dated :- 30/04/2019.

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