

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 578/2021(D.B.)

Ku. Sonal D/o Namdeo Meshram,
Aged about 25 years, occu :- Nil,
R/o Mangali, Post Jugnala,
Taluka Bramapuri,
District-Chandrapur 441206.

Applicant.

Versus

- 1) State of Maharashtra,
through its Secretary,
Public Health and
Family Welfare Department,
Mantralaya, Mumbai-400 001.
- 2) The Deputy Director,
Health Services,
Nagpur Division,
Nagpur - 440001.

Respondents

Shri P.S.Sahare, Ld. Counsel for the applicant.
Shri A.P.Potnis, Ld. P.O. for the respondents.

Coram:- Hon'ble Shri Shree Bhagwan, Vice-Chairman and
Hon'ble Shri Justice M.G.Giratkar, Vice-Chairman.

Dated: - 14th July 2022.

JUDGMENT**Per : Shri Shree Bhagwan Vice Chairman.****Judgment is reserved on 28th June, 2022.****Judgment is pronounced on 14th July, 2022.**

Heard Shri P.S.Sahare, learned counsel for the applicant and Shri A.P.Potnis, learned P.O. for the respondents.

2. Case of the applicant is as follows.

The applicant belongs to Scheduled Caste and she has passed HSC having General Nursing and Midwifery course certificate. Respondent no.2 issued an Online advertisement on the www.mahapariksha.gov.in calling upon to fill up the post of Medical Staff (Class III) i.e. State of Maharashtra, Public Health-2018 dated 20.02.2019 at **Annexure-2** on page 20.

3. The applicant being eligible applied to the said online advertisement. After, online application the applicant received written examination call also.

4. The respondent no.2 issued communication to applicant informing that the list of successful candidate in written examination was published on website. As, the applicant was selected. Therefore, she has to remain present in the office of respondent no.2

at 9 a.m. on 04.05.2021 along with original and two copies of attached copy of documents.

5. The respondent no.2 has issued communication to the Director-2, Health Services, Pune requesting to guide him how the appointments would be done and how to refuse the appointments to candidates at sr.no.4 to 7.

6. The respondent no.2 issued one more communication to District Orthopedic Officer, General Hospital, Chandrapur requesting him to verify the Disability Certificate and informed to his office.

7. The applicant receipt of one more communication from the respondent no.2 directed to applicant to submit documents for the post she applied and further, applicant was declared unqualified to be appointed to the post of Staff Nurse.

8. The applicant issued communication to the respondent no.2 informing that after document verification her name was declared to be appointed to Rural District Hospital, Arrmori. At the time of interview the applicant Disability certificate was very well before the officer and after verification they informed her that in short time she will receive the appoint letter. But on 22.06.2021, she received mail from respondent no.2 that as per Government Resolution 27.02.2009 she is not fit candidate to be appointed for the post applied by her.

9. The applicant submits that she worked in the Pandemic, 2019 for near about Eight Month to District, General Hospital, Chandrapur from 25.07.2020 to 30.04.2021 without any complaint. It is crystal clear that the non-applicants have decided not to appoint applicant any how and they wanted to appoint the candidates of their choice. The said action on the part of the non-applicants is not only bad in law but it also discriminative and illegal and void.

10. As per the advertisement **Annexure A-2**, Page 20 post wise details are given to the post of Staff Nurse Private(50%). In the advertisement dated 26.02.2019 in the chart total post of Staff Nurse is 266 and 37 posts are reserved for SC Candidates. There is no category shown in the table about physically challenge. However, at the bottom notice given that the post for physically challenge only which are 7 posts.

11. The applicant's disability certificate is at page 91 issued by medical board and Civil Surgeon, General Hospital Chandrapur. Disability shown as hearing impairment means applicant was S.C. in the category of hearing impairment. Government of Maharashtra, Public Health Department has issued Guidelines 2018 by department of Director/Health Pune which is attached at page 1 of reply. In this reply at page 5 Guidelines given for 50% candidates passed from

private Staff Nurse College has been shown. In this chart in physically challenged category two posts of bone deformity (अस्थिव्यंग) has been shown. No post he has shown in the category of hearing problem.

Respondents have filed reply of 31.12.2021 at page 85 onwards and along with attached **Annexure R-1** which is Guidelines prescribed by Public Health Department.

12. Respondents in their reply para 10 have mentioned that as per G.R. dated 27.02.2009 in Appendix at Sr.No.149 shows reservation for the post of Staff Nurse for the candidate disabled with Orthopedic with one leg. It is submitted that the applicant has produced her certificate

of disabled with hearing impaired (B/L Severe SNHL) and as per certificate produced she was not eligible for the post of staff Nurse as per Government Resolution dated 27.02.2009 and hence declared to be unqualified for the post of Staff Nurse vide communication dated 22.06.2021. The impugned order dated 22.06.2021 Annexure A-7 page 45 has explained that the post advertise were to be filled only from Orthopedic with one leg. No posts are to be filled from hearing disability candidate and hence it was not possible for respondent to appoint the candidates. They have attached the G.R. dated

27.02.2009 page 46 and it is mentioned that as explained in the G.R.. it is explained that 100 point roster No.1, 34 and 67 will be filled by disability candidates and while filling the post it should be rotated among-

- 1) Blindness/Less Vision People
- 2) Less hearing or hearing impaired people or mentally retarded out of these posts should be filled by rotation. Since the applicant as per direction of the Government of G.R. dated 27.02.2009 respondents were to fill Bone Deformity, hearing problem extra on rotation. Posts were filled in this advertisement was related to Bone Deformity. Since it was not possible for the respondents to fill the category of physically challenge person of less hearing problem to which candidates belongs, so the applicant was not appointed.

As per discussion in above para the relief claimed in O.A. about impugned order dated 22.06.2021 Annexure A-7 page 45 cannot be granted and other reliefs. The O.A. is devoid of merit. In view if this situation O.A. requires to be dismissed. Hence, the following order.

ORDER

- 1) O.A. is dismissed.
- 2) No order as to costs.

(Justice M.G.Giratkar)
Vice Chairman

(Shree Bhagwan)
Vice Chairman

Dated – 14/07/2022

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

Name of Steno : Raksha Shashikant Mankawde
Court Name : Court of Hon'ble Vice Chairman &
Court of Hon'ble Vice Chairman .
Judgment signed on : 14/07/2022.
and pronounced on
Uploaded on : 14/07/2022.