

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO.97/2013

DISTRICT : NANDED

Mandakini Ganeshrao Chaware,
Age : 53, Occ : Service (as Sister
In Charge at GMC & H, Nanded),
R/o. C/o. Dr. V.N.Mahure,
Sanwad Mahavir Hsg. Scty., Nanded,

õ APPLICANT

V E R S U S

- 1) The State of Maharashtra,
Through its Secretary,
Medical Education & Drugs Dept.,
M.S., Mantralaya, Mumbai-32.
- 2) The Director of Medical Education
And Research, M.S., Mumbai-1.
- 3) The Indian Nursing Council,
Combined Councils Building,
Kotla Road, Temple lane,
New Delhi-110002.

õ RESPONDENTS

APPEARANCE : Shri A.S.Deshmukh learned Advocate for the
Applicant.

Shri V.R.Bhumkar learned Presenting Officer
for respondents.

CORAM: Honõle Shri Rajiv Agarwal, Vice-Chairman and
Honõle Shri J.D.Kulkarni, Member (J)

DATE: 20st October, 2016.

O R A L O R D E R**[PER: VICE-CHAIRMAN]**

Heard learned Advocate Shri A.S.Deshmukh for the Applicant and Shri V.R.Bhumkar learned Presenting Officer for the Respondents.

2. This O.A. has been filed by the Applicant who is seeking promotion from the post of Staff Nurse to that of Tutor in Government Medical College, Nanded. The Applicant's claim is that respondents have been filling up vacancies of the post of Tutor by promoting Staff Nurses on the basis of seniority cum fitness. As regards Applicant, two objections have been raised; (I) Qualification of Post Basic B.Sc. Nursing acquired by her is from Indira Gandhi National Open University (IGNOU), which respondents claim is not recognized. (II) Other claim is that as per recruitment rules for the post of Tutor, all the posts of Tutor are to be filled by nomination and there is no provision of promotion from the cadre of Staff Nurses.

3. Learned Advocate Shri Deshmukh stated that the recruitment rules which respondents are relying on, have not been placed on record. In any case, it is the usual practice being followed for years together in the State is to promote eligible Staff Nurses to the post of Tutor. Latest order he has been able to lay his hands upon is dated 16-06-2016 issued by the Directorate of Medical Education and Research, Mumbai. Learned Advocate

Shri Deshmukh stated that in many O.As. this Tribunal has held that degree of Post Basic B.Sc. Nursing granted by IGNOU is recognized by the Indian Nursing Council as well as the Maharashtra Nursing Council. In O.A.Nos.264/2013 and 265/2013 by judgment dated 11th August, 2014 Nagpur Bench of the Tribunal has held that degree of P.B.B.Sc. of IGNOU is a recognized one.

4. Other objection of the Respondents that post of Tutor can only be filled in by nomination, may be legally correct. However, we cannot ignore the fact that Directorate of Medical Education and Research is routinely appointing Staff Nurses on promotion as Tutor. We do not understand as to why only in the case of the Applicant, the objection is taken regarding there being no provision for such promotion in the recruitment rules.

5. In view thereof respondent no.2 is directed to give appointment to the applicant on the post of Tutor in any of the available vacancies, if she is found fit for that post on the basis of her seniority in the cadre of Staff Nurses. This should be done within a period of 6 weeks from the date of this order. Accordingly, O.A. stands disposed of with no order as to costs.

(J. D. Kulkarni)
MEMBER (J)

(Rajiv Agarwal)
Vice-Chairman