

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO.756/2019 (D.B.)

Ku. Deepali d/o Pradip Shelke,
Aged about 25 years, Occu.: Nil,
R/o, C/o Pradip Motiram Shelke,
Ex- Serviceman, at Post Shirpur,
Tahsil and District Buldana.

Applicant.

Versus

- 1) The State of Maharashtra,
Through its Secretary,
Medical Education and Drugs Department,
Mantralaya, Mumbai-400032.
- 2) Director of Medical Education & Research Department,
Government Dental College & Hospital Building,
4th Floor, St. George Hospital Premises,
P.Demelo Road, Fort, Mumbai.
- 3) The Dean,
Government Medical College and Hospital,
Gondia, Tahsil and District Gondia.
- 4) District Soldier Welfare Officers,
Sainiki Complex, Near Bus Stand, Buldana.

Tahsil and District Buldana.

Respondents.

Shri A.P.Sadavarte, Ld. Counsel for the applicant.
Shri A.M.Khadatkar, Ld. P.O. for the respondents.

Coram:- Hon'ble Shri Justice Vinay Joshi, Member (J) &
Hon'ble Shri Nitin Gadre, Member (A).
Dated:- 9th January, 2025.

JUDGMENT

Heard Shri A.P.Sadavarte, learned counsel for the applicant and Shri A.M.Khadatkar, learned P.O. for the respondents.

2. This Original Application is for challenging the impugned communications dated 24.09.2019 and 15.10.2019 by which the applicant's appointment on the post of Staff Nurse has been cancelled.

3. The applicant's father was appointed as "Shipai" in the Armed Forces. While performing duty, the applicant's father met with an accident whereby sustained permanent disability. In consequence the applicant's father was discharged from the services of Armed Forces.

4. The applicant being a daughter of discharged Shipai serving with Armed Forces has applied for an appointment in terms of Government Resolution dated 02.09.1983. It is applicant's contention that her father being unfit for Civil Services, she is entitled to avail the job in 15% quota specified for such a category in terms of said Government Resolution. The applicant would submit that her father was declared to be unfit for Civil Services and, therefore, she is eligible. The applicant has applied in said 15% quota for Staff Nurse on which she has been appointed. In terms of condition of appointment, her documents have been verified, but it was found that she does not qualify the requisite criteria in terms of G.R. dated 02.09.1983. Accordingly, vide impugned communication dated 15.02.2019, it has been informed that applicant is unfit for availing benefit of the said G.R. since her father was declared "fit" for Civil Services. It was followed by issuance of show cause notice to the applicant which she did reply. After considering the reply, vide communication dated 24.09.2019 respondent has cancelled the applicant's appointment holding ineligible for the services.

5. The respondents have filed the reply stating that the applicant's father though met with an accident and released from Armed Forces, however, the Medical Board certified him to be "fit"

and suitable for Civil Services. In the wake of said position, applicant who is his daughter (family member) cannot claim service in 15% specified quota. Secondly, it has been canvassed that applicant's father was also appointed with Social Welfare Department meaning thereby he has been employed in Ex-Serviceman category therefore, also applicant is not entitled for the employment.

6. The entire controversy hinges around the terms and conditions of G.R. dated 02.09.1983 on the basis of which the applicant is claiming employment. As per Clause-1 of the Government Resolution, handicapped Ex-Servicemen himself is eligible for getting employment in Civil Services. The 2nd Clause of the G.R. is a sort of proviso which states that in case the handicapped Ex-Serviceman is unfit for the employment in Civil Services then only one of his family member would avail benefit in said 15% quota. The applicant is laying hand on the 2nd Clause stating that her handicapped father (Ex-Serviceman) is unfit for Civil Services hence she is eligible.

7. Few facts are not in dispute that applicant's father was Ex-Serviceman, he was discharged from the duties on account of accident during course of service. The dispute is whether after discharge he was certified to be "fit" for Civil Services or "unfit" as the

fate of this application depends on said factor. In this regard, Medical Certificate issued from Lieutenant, Military Hospital, Jodhpur has been produced on record (Annexure A-2). The certificate contains that the applicant's father is released from services and he does not require further hospitalisation. Further, the applicant's father is fit / unfit for employment in Civil Services. It is not in dispute that the word "unfit" has been scored by putting a line which gives a meaning that the authority intended to specify that he is fit for the Civil employment. When the said certificate was forwarded to the District Military Welfare Officer, Buldhana for verification, he has opined that the applicant's father was declared to be fit for Civil Services and, therefore, on the basis of said opinion from the concerned department the applicant was held to be unfit for employment.

8. The learned counsel for the applicant would submit that the certificate shows that he is unfit as the word "unfit" is tick marked. Perusal of certificate indicates the mode and manner to scratch unwanted words which have been at three places in the certificate. This itself shows that the word which was not intended was scratched. Thus, it is not possible to accept the applicant's submission. Moreover, employer has clarified that the applicant's father was declared "fit" for Civil Services.

9. The second ground canvassed is that the applicant's father though obtained a job, it was a contractual and thus it would not come in the way of applicant's employment. The applicant has produced appointment letter of her father, showing that there is no specific mention that the appointment was by availing benefit of 1st Clause of G.R. of the year 1983. However, the advertisement itself discloses that the applicant's father secured said job in Ex-serviceman category. However, the said employment being contractual we are not harping on said aspect.

10. Reverting to the G.R., the 1st clause speaks about reservation of 15% quota to the handicapped Ex-serviceman and as per 2nd Clause, if they are unfit for Civil Services then only services may be given to one of the family member. As noted above, the applicant's father though was unfit for Military Services, however, Medical Certificate and service book discloses that he was declared fit for Civil Services. Pertinent to note that he was also later obtained a job though on contract basis in Ex-Serviceman category which also accentuates that he was declared fit for Civil Services. This being the position the applicant cannot claim benefit of the second Clause of the G.R. of the year 1983. The impugned action is in consonance with the terms of G.R. and prevailing position. Therefore, we do not see

any irregularity or wrong while interpreting the provisions of G.R. and thus the application carries no merits. **Hence, the O.A. is dismissed. No order as to costs.**

(Nitin Gadre)
Member(A)

(Justice Vinay Joshi)
Member (J)

Dated – 09/01/2025
rsm.

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 Member (J)
& Hon'ble Member (A).

Judgment signed on : 09/01/2025.

and pronounced on