

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI**

**ORIGINAL APPLICATION NO.589 OF 2024**

**DISTRICT : SANGLI**

**Sub.:- Selection**

Shri Hanmant Rama Kurhade. )  
Age : 32 Yrs, Occu.: Student, R/o. Gardi, )  
Tal.: Khanapur, District : Sangli. )...**Applicant**

**Versus**

1. The State of Maharashtra. )  
Through Secretary, )  
Public Health Department, )  
Mantralaya, Mumbai. )
2. The Commissioner of Health Services) )  
@Director National Health Mission, )  
St. George's Hospital Compound, )  
P.D. Mello Road, Mumbai. )
3. Deputy Director. )  
Health Services, Pune Region, Pune )  
Having Office at 3<sup>rd</sup> Floor, )  
Opp. Vidhan Bhavan Building, )  
Pune – 411 001. )
4. Medical Superintendent. )  
Regional Mental Hospital, Pune, )  
Near RTO Office, Phulenagar, )  
Yerawada, Pune – 411 006. )

5. Arjun Santosh Mudal. )  
Age : Adult, Occu.: Service & Student)  
Working at Regional Mental Hospital,)  
Pune, Near RTO Office, Phulenagar, )  
Yerawade, Pune – 411 006. )...**Respondents**

Shri R.B. Khot, learned advocate for Applicant.

Ms. S.P. Manchekar, Chief Presenting Officer for Respondent Nos.1 to 4.

Shri Swaraj Jadhav, with Shruti Kumbhar, learned Advocate for Respondent No.5.

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

**DATE : 04.03.2025**

### **J U D G M E N T**

1. The Applicant has applied for post of 'Male Attendant' in Regional Mental Hospital, Pune under the category of 'VJ'. He also prays that Respondent No.5 who got benefit of Corrigendum/Order dated 13.03.3024 is not to be given permanent status.

2. The learned Advocate for Applicant points out impugned Advertisement dated 20.08.2023. The learned Advocate for Applicant points out general instructions dated 15.03.2023 issued by Public Health Department. He also points out Clause 1 wherein the physical eligibility of the candidate applied for the post of 'Male Attendant' is mentioned. For 'Male Attendant', the height is 5.7 inch and Chest is 32 to 34, expansion should be more than 5 cms. and weight should be between 55 to 65 kg.

3. The learned Advocate for Applicant further pointed out provisional list of candidates which was published on 12.02.2024. He points out Chart showing the marks obtained by the Candidates. The name of the Applicant is appearing at Serial No.4 – Shri Hanmant Kurhade, has secured 151.79 out of 200 marks. The Candidate at Serial No.1 & present Respondent No. 5, Shri Arjun S. Mudal has secured 172.74 out of 200 marks. Then letter was issued on 13.03.2023 wherein relaxation of weight and height was given. The weight and height which is mentioned in the Advertisement is to be considered as an ideal. However, it can be relaxed on the basis of criteria for the height and weight and BMI applicable to the Police and Forest Guards. He further pointed out Notification dated 20.07.2021 which are the 'Recruitment Rules' and relevant portion about height, chest and weight and is mentioned as follows :-

“उंची - ५.७”  
छाती - ३२ ते ३४” व छाती फुगवून ५ से.मी. जास्त  
वजन - ५५ ते ६५ किलो दरम्यान”

Height – 5.7”  
Chest – 32 to 34” and Chest expansion  
5 cms more.  
Weight – 55 to 65 Kg.

Height is not disputed, but weight and chest is disputed.

4. The learned Advocate for Applicant pointed out to Page 110 of Original Application wherein the 'Extract' of 'Certificate of Physical Eligibility' of 'Respondent No.5' is communicated under RTI to the Applicant on 22.05.2024, which is as under :-

**तपशील अपेक्षित प्रत्यक्ष मापलेले उंची छाती वजन समिती अभिप्राय**

अ. क्र.	तपशील	अपेक्षित	प्रत्यक्ष मापलेले
१	उंची	५.७”(१७०.१८ से.मी.)	१७६.६ cm
२	वजन	५५ ते ६५ किलो दरम्यान	७९ kg
३	छाती	३२ ते ३४” व छाती फुगवून ५ से.मी. जास्त	३९ - ४०.५
४	BMI (Weight in kg/ height in Mts. Sqr.		२५.३

५	Broca's Indix Height in cm - 100		७६.६
	समिती अभिप्राय	पात्र	

5. The learned Advocate for Applicant submits that the weight of Respondent No.5, expected to be 55 to 65 kg, but his weight is 79 kg and chest is expected to be 32 to 34 inch and expansion is shown as 4 cms. However, his chest is measured as 39 inch but after expansion i.e. 40.5 inch, only 1.5 inch expansion is shown. This is contrary to the Recruitment Rules as well as the Advertisement.

6. The learned CPO relied on Affidavit-in-Reply dated 29.08.2024 filed by Respondent Nos.1 to 4 through Chief Administrative Officer. She highlighted Para 10.1 wherein minimum criteria for physical fitness is mentioned, and therefore, relying on Corrigendum of 13.03.2024. 9. The learned CPO relied on 'Rule 5(b)(iii)' of 'Attendant Grade III Mental Hospital under the Directorate of Health Services Rules'. She further submitted that minimum is considered and therefore Respondent No. 5, was appointed as he fulfilled all the required eligibility.

7. The learned Advocate for Respondent No.5 points out to Page No.54 of Notification dated 20.07.2021 which is part of Advertisement dated 15.03.2023. In Column No.13.15 of the Advertisement, it is stated as under :-

“13.15 जाहिरातील कोणतेही मुद्दे शासन निर्णयाच्या विसंगत असल्यास, शासन निर्णय अंतिम राहिल.

The learned Advocate for Respondent No.5 points out to Rule 3 Sub-rule 3 of Notification dated 20.07.2021 where the physical eligibility criteria for the post of 'Male Attendant' are mentioned. The Respondent No. 5 completed 10 months and short of 2 months' period to complete the probation period. Learned counsel for Respondent No. 5 has submitted that he is meritorious with 172 marks and he fulfilled all the criteria

applied by the Department as per the Circular and therefore he was appointed by order dated 15.3.2024 and since then he has been working on the said post of Male Attendant, Mental Hospital, Pune.

8. The words used in the Notification in Clause No.3, which is reproduced as under :-

“(३) जे शारीरिक व मानसिक दृष्ट्या सक्षम असले पाहिजेत आणि त्यानुसार त्यांनी जिल्हाशल्य चिकित्सक यांचेकडील प्रमाणपत्र प्राप्त करून सादर करणे आवश्यक राहिल. किमान शारीरिक पात्रतेचे निकष पुढीलप्रमाणे असतील:-

पुरुष परिचारांसाठी शारीरिक क्षमता :

उंची - ५.७”

छाती - ३२ ते ३४” व छाती फुगवून ५ से.मी. जास्त

वजन - ५५ ते ६५ किलो दरम्यान

स्त्री परिचारांसाठी शारीरिक क्षमता :

उंची - ५.२”

वजन - ५० ते ६० किलो दरम्यान”

The underlined portion i.e., “किमान”, it means minimum and therefore, it shows that height should be minimum 5.7 and no limit is quoted for maximum. Chest 32 to 34 inch. minimum, but after expansion, it should be 45 inch more. Similarly, weight for Male Candidate is mentioned 55 to 65 kg between. The word ‘between’ is mentioned to show minimum and maximum limit. The word “किमान” i.e. minimum is mentioned above where it does not put in maximum limit for height and chest expansion. But however, for weight, the word “दरम्यान” is used i.e. between. The minimum weight should be 55. So, if at all the person’s weight is 50 or 52, then he is not eligible. Similarly, the weight should be in between 55 to 65 kg. and if it is 66, then person is not eligible and thus, this Recruitment Rules are clear about the physical eligibility of the candidates aspiring to be ‘Male Attendant’ and accordingly, Advertisement was issued. However, Respondent-State should not have relaxed the criteria of physical eligibility by issuing just a letter of 13.03.2024. Moreover, the Recruitment Rules stands at higher footing on such communication.

9. For measurement of the Chest in Marathi the word used is ३२ ते ३४ (emphasize placed) the word “ते” means upto or between and thus the Chest may be minimum 32 inch and maximum 34 inch. If this is accepted then 34 inches Chest is not as per the recruitment rules. At the outset, we are of the view that the Recruitment Rules are required to be reviewed and basic modifications in respect of the measurement of the width of the Chest and the weight are required, in view of the physical measurement of the Indian Males and Females. Therefore, we explain the height and weight measurement initially and then we analyze. Thus, in view of the measurement of width of the chest, we take judicial note that the width of the chest of a stout and muscular person who is regularly doing exercise, can be more than 34 inches and in India generally average width of the Chest of Indian Male can be 34 to 40 inches also and more than that also. So is the case of the weight of the minimum and maximum of a Male candidate. It should be between 55 kg and 65 kg. However, if a person is 6 ft tall then to expect his weight as 65 kg, then the person should not only be slim but very thin. If at all he is stout, then his weight would definitely go beyond 65 kgs. We are of the view that the height & weight measurement and width of chest mentioned in the Recruitment Rules completely vary from the ground reality. Undoubtedly, as on today these recruitment rules dated 20.7.2021 are in existence and therefore, they are to be made applicable. We further note that the post is of a Male Attendant in a Mental Hospital. Undoubtedly, these Male Attendants do come across different situations, where they need to use their physical power to control a mentally imbalance person if at all he become violent. The patients in the mental hospital are bound to be of different age with different physical power and ability. Therefore, the requirement of a stout person is required to work as a Male Attendant. We note same is the case of Female Attendant.

10. Thus, we are in agreement with the learned counsel for the applicant that the Circular dated 13.3.2024 issued by the Section Officer,

Public Health Department thereby giving directions to apply different criteria and measurement is not consistent with the recruitment rules and it should not have been applied while selecting Respondent No. 5, and rejecting the candidature of the applicant, who has cleared the written examination with 151.79 marks.

11. In the course of arguments, it was found that one post of Male Attendant at Mental Hospital, Pune is still vacant and the applicant can be accommodated against the said post. Further, the present applicant has approached this Tribunal on 25.4.2024, i.e., immediately after his candidature was rejected and Respondent No. 5 was given the appointment. Thus, no time was wasted by him in approaching the Tribunal. In all selection and recruitment process, time factor matters a lot. Thus, as the applicant has approached this Tribunal immediately without wasting time, we need to consider the peculiar circumstances in this recruitment process and so also the fact that as on today one post of Male Attendant in open category is available. Considering the peculiar circumstances of the case, we are of the view that the applicant is required to be accommodated against the vacant post of Male Attendant, at Regional Mental Hospital, Pune.

12. In view of the above, we pass the following order.

### **ORDER**

- (i) The Original Application is allowed.
- (ii) The impugned Corrigendum dated 13.3.2024 is quashed and set aside.
- (iii) The Respondents are directed to appoint the applicant as Male Attendant (Ward Boy) under VJ category in Mental Hospital, Pune on or before 1.4.2025.

- (iv) The Respondents are directed to review the Recruitment Rules in respect of the requirement of the physical measurement of a Male Attendant.

Sd/  
**(Debashish Chakrabarty)**  
**Member-A**

Sd/-  
**(Mridula Bhatkar, J.)**  
**Chairperson**

**Place : Mumbai**  
**Date : 04.03.2025**  
**Dictation taken by : A.K. Nair.**