

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No.1227 of 2023 (D.B.)**

1. Mansi D/o, Mahesh Yete,
Aged: 25 years, Occu. Student,
R/o Neel Vihar Complex X, C Wing Plot No. 406,
New Arsala Nagpur City, Dist- Nagpur.
2. Sangita D/o Khushal Maha
Aged:30 years, Occu. Student
R/o. Pavi Muranda, Tq- Chamorshi,
Dist. Gadchiroli.
3. Shubhangi D/o Pradip Deshpande,
Aged 26 years, Occu. Student,
R/o Chikali Virali Khnadar, Tq. Pavani,
Dist. Bhandara.

Applicants.**Versus**

- 1) The State of Maharashtra,
Through its Secretary, Public Health Department,
Mantralaya, Mumbai - 400032.
- 2) Through Director of Medical Education & Research,
office Building, 4th Floor, Government Dental College & Hospital,
St. George's Hospital Compound Railway Station, P D'Mello Rd,
near CSMT, Chhatrapati Shivaji Terminus Area, Fort,
Mumbai, 400001.

Respondents.

**S/Shri R.S. Wasekar, Shrawan Taram, Advs. for the applicants.
Shri M.I.Khan, learned P.O. for respondents.**

**Coram :- Hon'ble Shri Justice M.G. Giratkar, Vice Chairman and
Hon'ble Shri Nitin Gadre, Member (A).**

Dated :- 03/09/2024.

J U D G M E N T

Heard Shri R.S. Wasekar, learned counsel for the applicants and Shri M.I. Khan, learned P.O. for the respondents.

2. Case of the applicants in short is as under –

Respondent no.2 issued advertisement on 10/05/2023. The applications were invited from the interested candidates for filling vacancies of 3974 posts of Staff Nurse across the Maharashtra State. In pursuance of the said advertisement, the applicants have submitted their applications through online mode. The applicants have successfully passed the written examination and their names are enlisted in the list of Staff Nurse in the final merit list of 2023.

3. Respondent no.2, i.e., the Director of Medical Education and Research, Mumbai has prepared a list of eligible candidates for documents verification. The names of applicants are in the list for verification of documents. Therefore, applicants approached to the respondent no.2 for documents verification, but they were not allowed to verify their documents though the applicants' names were in the merit list. The applicants had wrongly chosen "No" option in the online form which was to be filled by the candidates. The applicants inadvertently not opted for female reservation and therefore they are not allowed for verification of documents. Hence, the applicants approached to this Tribunal for direction to the respondents to allow

them for documents verification and to participate in further process of recruitment.

4. Respondent nos.1 and 2 filed their reply. It is submitted that as per the advertisement dated 10/05/2023 posts were reserved for Open (General), Woman, Sports candidates, Ex-serviceman, Project Affected Persons, Earthquake Affected Persons etc. The applicants have not opted for woman reservation. Now the applicants are claiming that they are to be selected in the reserved category of Woman. There is a specific condition in Clause no.6.4 in the advertisement. After the submission of the form, candidates cannot be allowed to correct it or get the benefit as per her / his choice. Hence, the O.A. is liable to be dismissed.

5. The material conditions are given in the Recruitment Rules of Nursing / Technical / Non-Technical Cadre (P-86). Clause nos.4.10, 6.4 and 6.5 of the Recruitment Rules are reproduced below –

“Clause no.4.10 – The candidates desirous of claiming the constitutional and / or specified reservations must have claimed the same in the online application form, failing which the claim will not be entertained subsequently.”

“Clause 6.4 Before submission of Application Form the candidate should read carefully the conditions given under "Declaration by the Candidate." Candidate should agree to the below given conditions, before submitting the application form.

6.5 "Declaration by the Candidate"

I hereby solemnly and sincerely affirm that each and every statement made and the entire information given by me in the application form is true and correct.

I have not concealed any material information, however if any information submitted herein is found fraudulent, incorrect or untrue, I understand that I am liable to criminal proceedings and I also agree to forgo my seat in that particular post of cadre. I also understand that my selection to the post is also liable to be cancelled.

I have carefully read the rules & regulations of brochure and I agree to abide by them. Hereby accept in entire the legality, validity and correctness of these rules. I understand by submitting this application I have accepted the correctness, validity and/ or justifiability of all these and that had I not accepted the correctness and validity of these rules, I would not have submitted this application and further that it will not be open hereinafter to challenge and / or question validity and / or correctness of any rule or part thereof.

I undertake to submit all required original certificate at the time of uploading of document/ physical document verification process as well as at the time of selection of the post as per rules, failing which I understand that my claim for selection shall not be granted. If candidates agreed for aforesaid conditions, then only he should click the "I Agree" Button so that his application form will be accepted.

The details of Online Application / Registration Procedure & Process of Online submission of application form are given in Annexure-J, Applicants should follow these procedure/ guidelines at the time of filling online application form."

6. The applicants are claiming that they are in the merit, but they are not called for documents verification for the posts reserved in

the woman category. The applicants have not filled the form seeking woman reservation. They have specifically stated in the form that they are not seeking woman reservation.

7. The learned counsel for the applicants has pointed out pursis filed on record dated 21/08/2024. Along with this Pursis one document is filed. As per his submission, the last candidate namely Rohini Dattu Suryawanshi is called for documents verification. The applicants cannot seek similarity as like Rohini Dattu Suryawanshi, because, Rohini Dattu Suryawanshi was called for documents verification as per the marks obtained by her. The applicants have not opted for woman reservation. They have specifically mentioned in the form that they are not seeking reservation in woman category. Now the applicants cannot say that they should be given posting in woman category. All the conditions mentioned in the advertisement are material. All the candidates who appeared in the interview shall follow the conditions. The Hon'ble Supreme Court in the case of **K.G. Ashok & Ors. Vs. Kerala Public Service Commission & Ors., 2001, SCC (L&S) 845** has held that the conditions mentioned in the advertisement are material. The candidates who appeared for the interview are bound to follow conditions mentioned in the advertisement.

8. All the applicants have specifically stated in the form that they do not want reservation for woman and therefore they cannot say that they should be given benefit of woman reservation. Hence, we pass following order –

ORDER

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

(Nitin Gadre)
Member(A).

(Justice M.G.Giratkar)
Vice Chairman.

Dated :- 03/09/2024.

dnk.

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

Name of P.A. : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman and Member (A).

Judgment signed on : 03/09/2024.