

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD.

ORIGINAL APPLICATION NO. 635/2011

DIST.: AURANGABAD

Dr. Sandeep s/o Ramjivan Baheti,
Age: 29 years, Occu. Service,
R/o Arvind Nagar, Nanded,
Tq. And Dist. Nanded

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APPLICANT

V E R S U S

1. The State of Maharashtra,
Through its Secretary,
Medical Education & Drugs Department,
Mantralaya, Mumbai.

(Copy to be served on P.O.
Before this MAT)

2. The Maharashtra Public Service Commission,
3rd Floor, Bank of India Building,
Mahatma Gandhi Road,
Hutatma Chowk,
Mumbai 400 001.
3. Maharashtra Union of Health Services,
Wani Road, Mhasrul, Nashik- 422004
Through its Registrar.
4. Directorate Ayurved,
Maharashtra State 4th Floor,
Govt. Dental College,
St. George's Hospital Campus,
P.D. Mellor Road,
Fort, Mumbai.
5. Central Council of India Medicine,
Institutional Area, Jankapuri,
New Delhi 110058
Though its Secretary.

-- **RESPONDENTS**

APPEARANCE : Shri G.K Kshirsagar, learned Advocate for
the Applicant.

: Shri D.R. Patil, Learned Presenting Officer for
the Respondents.

**CORAM: HON'BLE SHRI RAJIV AGARWAL, VICE CHAIRMAN (A)
AND
HON'BLE SHRI J.D. KULKARNI, MEMBER (J)**

DATE : 23.09.2016.

ORAL ORDER

[Per- Hon'ble Shri Rajiv Agarwal, Vice-Chairman (A)]

Heard Shri G.K. Kshirsagar – learned Advocate for the
Applicant and Shri D.R. Patil – learned Presenting Officer for the
respondents.

2. As the M.A. No. 3/2015, stands allowed by today's order
and this O.A. is restored to its original file. Thereafter, the O.A. is taken
up for disposal on merits.

3. The claim of the applicant is based on the letter dated
15.05.2002 of Central Council of Indian Medicine, New Delhi addressed
to all the Principals, Deans and Directors of Ayurved College in India. It
has been informed *inter alia*, that if for a post of Assistant Professor
required qualification is post graduate degree in Agadtantra, and no
qualified person is available, a person having post graduate qualification
in Drayvagune or Kayachikstha can be considered. Learned Advocate
for the Applicant stated that the applicant had applied for the post of

Assistant Professor Agadtantra as he holds M.D. degree in Kayachikstha.

4. Learned Presenting Officer stated that for the five posts of Assistant Professor in Agadtantra, M.P.S.C. received a total of 61 applications out of which 39 candidates were prima facie eligible. It means that they had M.D. degree in Agadtantra. He further contended that sufficient candidates with requisite qualification were available and there was no reason or necessity to consider the application of the applicant, who did not have the basic qualification. He could have been considered only if candidates having M.D. in Agadtantra were not available.

5. We find that the contention of the learned Presenting Officer is legally correct and when sufficient candidate with requisite qualification of M.D. Agadtantra were available, there was no reason to consider a candidate, who did not have that qualification. That eventually will arise only when sufficient candidate with qualification of M.D. Agadtantra were not available.

6. Learned Advocate for the Applicant stated that out of these five posts, one post was to be reserved for physically handicapped person with hearing impediment and the applicant had is a physically

handicapped person. He was eligible for considered from physically handicapped category.

7. Learned Presenting Officer however, countered stating that as per the advertisement, one post was reserved for person with disability of hearing impaired and the applicant did not suffer from that disability and was not eligible to be considered from that category as he has locomotive disability.

8. We do not find any merit in this O.A. and it is dismissed with no order as costs.

MEMBER (J)

VICE CHAIRMAN (A)