

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No. 922 of 2022 (D.B.)**

Dr. Quazi Shadma D/o Syed Hafizoddin,
Aged about 38 years, Occ- service, R/ Tekri Road,
Sadar Nagpur.

Applicant.

Versus

- (1) The State of Maharashtra, through its secretary,
Medical Education & Drugs Department, Matralaya,
Mumbai 400032.
- (2) The Director of Medical Education & Research,
Saint Gorge Hospital Mumbai.
- (3) The Maharashtra Public Service Commission,
through its Secretary (Direct Recruitment) having office,
at 578th Floor, Kuprez Telephone Exchange Building,
Maharshi Karve Road, Kuptez. Mumbai-400 021.
- (4) National Medical Commission,
through its Chairperson, Pocket -14, Sector 8,
Dwarka, Phase -I, New Delhi- 110077, India.

Respondents.

Shri A.B. Mirza, Advocate for the applicant.
Shri S.A. Sainis, P.O. for respondent nos.1,2 & 4.
Shri Deo, C.P.O. for respondent no.3.

Coram :- Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.

Dated :- 06/05/2024.

J U D G M E N T

Heard Shri A.B. Mirza, learned counsel for the applicant,
Shri S.A. Sainis, learned P.O. for respondent nos.1,2 & 4 and Shri
S.A. Deo, learned C.P.O. for respondent no.3.

2. The regular Division Bench is not available. The Hon'ble Chairperson, M.A.T., Principal Bench, Mumbai issued Circular No.MAT/MUM/JUD/469/2023, dated 24/04/2023. As per the direction of Hon'ble Chairperson, if both the parties have consented for final disposal, then regular matter pending before the Division Bench can be disposed off finally.

3. As per the M.A.T., Principal Bench, Mumbai office order / letter No.MAT/MUM/JUD/1350/2023, dated 21/11/2023, the Hon'ble Chairperson, M.A.T., Principal Bench, Mumbai has given direction to this Tribunal to decide the Division Bench matters if the matter is covered by the Judgments of Hon'ble Supreme Court, Hon'ble High Court and the Benches of the M.A.T. etc.

4. As per the submission of learned counsel for applicant, this O.A. is covered by the Judgment of this Tribunal in O.A.No. 454 of 2022 with connected matters. Hence, the matter is heard and decided finally with the consent of learned counsel for both the parties.

5. The applicant approached to this Tribunal for challenging the list of not eligible candidates by which the respondents have shown the applicant as not eligible because she was not having the experience of one year of Senior Resident. As per the direction of this Tribunal, the respondents allowed the applicant to appear in the interview. The applicant has obtained 43 marks out of 100 marks. As

per the submission of applicant, she belongs to EWS (female) category. As per the advertisement, 41 % marks is sufficient to consider for the post of Assistant Professor.

6. The O.A.No.454 of 2022 with other connected matters were decided by this Tribunal as per the Pursis filed by the National Medical Commission. The National Medical Commission filed pursis before the M.A.T., Bench at Aurangabad and before this Tribunal also stating that those who were working as Assistant Professor were not required to have qualification of Senior Resident and therefore they can be appointed on the post of Assistant Professor in the Government Medical Colleges.

7. As per the direction of this Tribunal, the applicant was allowed to appear for interview. She has secured 43 marks out of 100 marks.

8. The learned CPO has filed Pursis along with the communication of the M.P.S.C. It is marked Exh-X. The said communication shows that the applicant has not secured 59 marks, i.e., cut off marks and therefore she is not selected / appointed for the post.

9. During the course of submission, the learned counsel for the applicant has pointed out the list of eligible candidates for

recommendation. At Sr.No.11, one Bhangale Chetan Suresh (OBC category) had secured 59 % marks and he was considered against EWS (female) category.

10. The learned counsel for applicant has filed G.R. dated 31/05/2021. As per his submission, the applicant was the only EWS (female) candidate and therefore as per the Govt. G.R. dated 31/05/2021, if the candidate in the said category is not available, then other candidates of other category can be appointed.

11. The learned counsel for the applicant has pointed out the advertisement. As per the clause no.5.6 of the advertisement, only 41% is sufficient for recommendation for appointment. The applicant has secured 43 marks out of 100 marks. Therefore, it is clear that she has secured more marks as laid down condition in Clause 5.6 of the advertisement. She has secured 43 marks and therefore as per the Clause 5.6 of the advertisement, the applicant was / is eligible for the appointment to the post of Assistant Professor. She was the only candidate of EWS (female). There was no necessity for the respondents to appointment OBC candidate in her place. When the specific category of candidate was available, then it was the duty of the MPSC to recommend the name of applicant for appointment to the post of Assistant Professor. Hence, the following order –

ORDER

(i) The O.A. is allowed.

(ii) The respondents are directed to recommend the name of applicant for the post of Assistant Professor in the Government Medical College (Government of Maharashtra) within a period of one month from the date of receipt of this order.

(iii) No order as to costs.

Dated :- 06/05/2024.

dnk.

(Justice M.G. Giratkar)
Vice Chairman.

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

Name of Steno : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 06/05/2024.