

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO. 679/2023 (S.B.)**

Smt. Kalpana W/o Arunkumar Vinchurkar (Kalpana Rode),
Aged about 54 years,
Occ. Service, R/o Plot No. 77,
Jambodeep Nagar, Ayodhya Nagar,
Near Sant Savita Hospital,
Nagpur – 440 024.

Applicant.

Versus

- 1) The State of Maharashtra,
Through it's Principal Secretary,
Medical Education and Research Department,
G.T. Hospital Premises,
New Mantralaya, Mumbai- 400 001.
- 2) The Commissioner,
Medical Education & Research Department (Maharashtra State),
4th Floor, Saint George Hospital Premises,
P.D.Mellor Road, Mumbai – 400 001.
- 3) The Director,
Medical Education & Research Department (Maharashtra State),
4th Floor, Saint George Hospital Premises,
P.D.Mellor Road, Mumbai – 400 001.
- 4) The Dean,
Government Super Speciality Hospital & Medical College,
Nagpur.

Respondents

Shri P.N.Warjekar, Id. Advocate for the applicant.

Shri S.A.Sainis, Id. P.O. for the respondents.

Coram :- Hon'ble Shri M.A.Lovekar, Member (J).

JUDGMENT

Judgment is reserved on 12th April, 2024.

Judgment is pronounced on 17th April, 2024.

Heard Shri P.N.Warjekar, Id. counsel for the applicant and Shri S.A.Sainis, Id. P.O. for the Respondents.

2. Undisputed facts are as follows. By order dated 31.03.2021 (A-2) the applicant who was working as Staff Nurse at Super Speciality Hospital, Nagpur was promoted as Sister Incharge. The order of promotion contained a note as follows:-

उपरोक्त निव्वळ तात्पुरत्या स्वरूपातील पदोन्नती स्वीकारण्यास कर्मचारी इच्छुक आहे किंवा नाही याबाबत त्यांची संमती / असंमती पत्र सदर आदेशाच्या दिनांकापासून दोन दिवसांत संचालनालयाच्या dmerebranch@gmail.com या ईमेलवर पाठविण्यात यावे व संबंधित कर्मचार्यांनी त्यांना कार्यमुक्त केल्यानंतर विहित कालावधीत पदोन्नती प्रदान करण्यात आलेल्या संस्थेत रुजू व्हावे. दोन दिवसांच्या आत संमती/असंमती पत्र प्राप्त न झाल्यास सदरहु कर्मचारी पदोन्नतीस इच्छुक नाही असे समजून त्यांना देण्यात आलेली पदोन्नती रद्द समजण्यात येईल व त्यानंतर त्यांची कोणतीही तक्रार विचारात घेण्यात येणार नाही व सेवाज्येष्ठता यादीमधील पुढील पात्र कर्मचार्यास पदोन्नती प्रदान करण्यात येईल. त्यामुळे पदोन्नतीस संमती / असंमती वेळेमध्ये कळविण्याची सर्वस्वी जबाबदारी संबंधित कर्मचार्याची व संस्थेची राहिल.

On 03.04.2021 the applicant made a representation (A-5) that she be posted at Nagpur on the post of Sister Incharge. This was

followed by representations dated 01.06.2021, 24.07.2021 and 07.09.2021. By order dated 30.06.2023 (A-10) the applicant was transferred to G.M.C.H., Gondia but as Staff Nurse and not as Sister Incharge. She joined on this post under protest. By order dated 14.09.2023 (A-12) the applicant was transferred to I.G.M.C., Nagpur from G.M.C.H., Gondia but again as Staff Nurse. It is the grievance of the applicant that at Nagpur more than 40 posts of Sister Incharge are vacant and on any of these posts she can be accommodated.

3. Stand of the respondents is that the applicant did not accept order of promotion as Sister Incharge, she continued to work as Staff Nurse, she was transferred to G.M.C.H., Gondia as Staff Nurse, she was then transferred to I.G.M.C., Nagpur as Staff Nurse and she has been working as Staff Nurse all along.

4. Specific stand of the respondents is that as per note no. 9 in order of promotion dated 31.03.2021 the applicant was required to intimate her willingness to work on the post of Sister Incharge and on failure to give such intimation, promotion was liable to be cancelled by assuming that there was no consent for promotion.

5. It is the contention of ld. counsel for the applicant that there were five Staff Nurses whose names featured in the list of promotion

dated 31.03.2021 (at Sr. Nos. 61, 64, 103, 204 & 211), presumably they too, did not comply with aforequoted note no. 9 of promotion order dated 31.03.2021 by giving necessary intimation within two days and yet, by orders dated 03.09.2021 and 08.12.2021 they were promoted as Sister Incharge as reflected in documents 1 & 2. A conjoint consideration of order of promotion dated 31.03.2021 and documents 1 & 2 shows that there is substance in the aforesaid contention of the applicant. It may be observed that contention of the applicant based on documents 1 & 2 has gone unanswered. It is also not disputed that there are vacancies of Sister Incharge at Nagpur as reflected in Annexures A-16 & A-17, and information at PP. 71 to 73. The applicant has made out a case, on the basis of these documents, to pass the following order. The O.A. is allowed in the following terms. The respondents are directed to suitably post the applicant on any post of Sister Incharge at Nagpur **within 15 days from today**. No order as to costs.

Member (J)

Dated :- 17/04/2024
aps

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

Name of Steno : Akhilesh Parasnath Srivastava.

Court Name : Court of Hon'ble Member (J).

Judgment signed on : 17/04/2024
and pronounced on

Uploaded on : 18/04/2024