

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI  
ORIGINAL APPLICATION NO.399 OF 2018**

**DISTRICT : SOLAPUR**

Shri Pravin Vilas Korpale, )  
Age 34 years, Occ. Nil, )  
R/o Plot No.16, Mazi Sainik Vasahat, Miraj )  
Yashoda Nawas Miraj Maruti Mandir, Miraj, )  
District Sangli )..Applicant

Versus

1. The State of Maharashtra, )  
Through Additional Chief Secretary, )  
General Administration Department, )  
Mantralaya, Mumbai )
2. General Administration, )  
Through the Principal Secretary, )  
Public Health Department, )  
Mantralaya, Mumbai 400032 )
3. The Commissioner of Public Health Care/ )  
Director of Mission, National Health Mission, )  
Mumbai )

4. The Deputy Director of Health Care, )  
Pradeshik Monorugnalay Awar, )  
Thane (West), Thane 400604 )..Respondents

Shri A.G. Awasarmol – Advocate for the Applicant

Smt. Archana B.K. – Presenting Officer for the Respondents

CORAM : Shri P.N. Dixit, Vice-Chairman (A)  
RESERVED ON : 10<sup>th</sup> January, 2020  
PRONOUNCED ON : 14<sup>th</sup> January, 2020

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

1. Heard Shri A.G. Awasarmol, learned Advocate for the Applicant and Smt. Archana B.K., learned Presenting Officer for the Respondents.
2. This is a case of rejection of the applicant by the impugned order on 14.2.2018 for the post of Staff Nurse (अधिपरिचारीका) from the Part-Time (अंशकालीन) category. The impugned order mentions that on 8.2.2018 at the time of counseling, as the applicant did not tender certificate in support of his claim as Part-time (अंशकालीन) he is declared as ineligible for the same. Applicant has prayed to quash the same.
3. On 1.1.2016 respondent issued advertisement for filling in posts in various ranks including Staff Nurse from various categories including Part-Time category. The advertisement also mentions that there is one post for persons from the category of NT (C). The candidates were directed to fill in online recruitment application forms. Accordingly, the applicant in his application form mentioned as under:

Are you a part-time employee? : Yes

(Quoted from page 52 of OA)

4. The advertisement among other things included following directions to the applicants:

“५) एकदा ऑनलाईन अर्ज सादर केल्यानंतर त्यात कोणत्याही प्रकारे बदल करता येणार नाही याची उमेदवाराने नोंद घ्यावी. त्यासाठी अर्जदाराने आवश्यक सर्व तपशील स्वतः जवळ तयार ठेवावा व अर्ज योग्य पध्दतीने भरला आहे याची खात्री करावी. परिक्षा ही उमेदवारांच्या कोणत्याही कागदपत्रांची पुर्वतपासणी न करता घेतली जाणार असल्यामुळे या परिक्षेत मिळालेल्या गुणांच्या आधारे उमेदवाराला निवडीबाबतचे कोणतेही हक्क राहणार नाहीत. कागदपत्रांच्या पूर्ण छाननीनंतर व कागदपत्रांच्या पुर्वतेनंतर सामाजिक व समांतर आरक्षणानुसार अंतिम निवड/ नियुक्ती करण्यात येईल.

७) उमेदवाराचा अर्ज नाकारता गेल्यास त्याची सर्वस्वी जबाबदारी उमेदवाराची राहिल. याबाबत उमेदवारास तक्रार करता येणार नाही. तसेच ऑनलाईन अर्ज भरतांना खोटी किंवा विसंगत /दिशाभुल माहिती भरल्याचे निदर्शनास आल्यास संबंधीत उमेदवारास अपात्र ठरविण्यांत येईल.

१८) परिक्षेमध्ये गुणवत्ता यादीत येणाऱ्या उमेदवारांना त्यांचे पदासाठी आवश्यक असणारे कागदपत्रे पडताळणीच्या वेळी केंद्र / राज्य शासनाचे राजपत्रित अधिकारी/ पोस्टमास्टर /मुख्याध्यापक व याबाबत प्राधिकृत व सक्षम अधिकारी यांचेकडून साक्षांकित करून किंवा स्वसाक्षांकित प्रती व मुळ कागदपत्रे तपासणीच्या वेळी सादर करणे आवश्यक राहिल.

प्रकल्पग्रस्त / भूकंपग्रस्त / अंशकालीन / अतिउच्च गुणवत्ता धारण खेळाडू प्रमाणपत्र / माजी / सैनिक / स्वातंत्र्यसैनिकांचे नामनिर्देशित पाल्य असल्यास उमेदवारांचे नांवे सक्षम प्राधिकाऱ्यांने दिलेले प्रमाणपत्र.

२०) सामान्य प्रशासन विभाग शासन निर्णय क्र.पअंक-१००९/प्र.क्र.२००/२००९/१६-अ, दि. २७.१०.२००९ अन्वये पदवीधर / पदविकाधारक अंशकालीन उमेदवारांना “सुशिक्षित बेरोजगारांना

अर्थसहाय्य” या योजनेअंतर्गत शासकिय कार्यालयामध्ये तीन वर्षांपर्यंत दरमहा मानधनावर काम केलेले पाहिजे. तसेच सदरच्या अनुभवाचे नोंद रोजगार मार्गदर्शन केंद्रामध्ये केलेली असली पाहिजे. अशा मानधनावर काम केलेल्या अंशकालीन पदवीधर / पदविकाधारक उमेदवारांनी सदरच्या अनुभवाची सेवायोजन कार्यालयात नोंदणी असणे व तशी नोंद ऑनलाईन अर्जात करणे आवश्यक आहे. निवड झालेल्या अंशकालीन कर्मचाऱ्यांनी त्यांच्या अनुभवाचे सेवायोजन कार्यालयाकडील प्रमाणपत्र कागदपत्राच्या तपासणीच्या वेळी सादर करणे आवश्यक राहिल.

२३) प्रकल्पग्रस्त, भूकंपग्रस्त, स्वातंत्र्य सैनिकांचे नामनिर्देशित पाल्य व अंशकालीन उमेदवाराच्या प्रमाणपत्रांची संबंधित जिल्ह्यातील जिल्हाधिकारी /जिल्हा पुनर्वसन अधिकारी यांचेकडून प्रत्यक्ष पडताळणी झाल्याशिवाय त्यांना नियुक्ती आदेश देण्यात येणार नाही.”

(Quoted from page 61-63 of OA)

5. After declaration of marks in written examination, on 30.1.2018 the respondents directed the applicant to remain present for counseling on 8.2.2018 along with relevant documents in support of his claim as open candidate in the category of Open (Part-Time) (pg.38-39). However, as he did not tender the necessary supporting documents, he was rejected. Following the same, he submitted an application (Exh.H) on 23.2.2010. The same reads as under:

“त्या ऑनलाईन फॉर्ममध्ये Are You a part-time असा कॉलम होता त्याच्या समोर मी Yes असे लिहले आहे मी सध्या Bina Nurses Bureau मध्ये काम करत असल्यामुळे तो पुर्वी मिशन हॉस्पिटल मिरज येथे काम केल्यामुळे त्या संदर्भातील अनुभवाचे प्रमाणपत्र मी जोडले आहे. वरील वाक्याच्या अनुषंगाने मी काम करीत असल्यामुळे मी Yes लिहले आहे. आपल्या संबंधित विभागाने माझी निवड अंशकालीन म्हणुन केली आहे. असे मला कळविले नाही.

मी माझा अर्ज NT-C मधून केला असल्यामुळे व माझी त्या जागेसाठी निवड झाली असल्यामुळे अचानक अंशकालीन प्रमाणपत्र नसल्यामुळे मला माझी निवड रद्द झाल्याचे कळविल्यामुळे माझे न भरुण निघणारे नुकसान होणार आहे. तेव्हा कृपया मला अधिपरिचारीका (स्वाजगी ५० टक्के) या पदावर काम करण्याची संधी दयावी ही नम्र विनंती.”

(Quoted from page 65-66 of OA)

6. Realizing that he cannot be selected from the open category of Open (Part-Time), the applicant requested the respondents to consider him in NT (C) category.

7. In reply to his OA, the respondents have filed their reply. The same reads as under:

*“7.3 Accordingly the applicant had submitted online application for the post of Staff Nurse in the category of private institutes having certificate of part time. While filling the online registration form, applicant had clicked yes, in front of "Are you a Part-time Employees ?". Applicant belongs to NT(C) and having Non - Creamy Layer and had Domicile certificate There were vacant posts in open category also in part-time category and applicant had submitted his application for the same. Therein the contents are factual and / or matter of record and hence admitted.*

*7.4 Applicant is having requisite qualification and was fulfilling the required condition he was called for written examination.*

*11.3 Accordingly, the applicant has submitted online application for the post of Staff Nurse. The Applicant belongs to NT (C) and had applied from the reserve category of NT (C) . As per his qualification and fulfilling the required condition he was called for written examination. The said written examination was conducted for the 200 marks , out of the 200 marks applicant had obtained 116 marks.*

*11.4 As per the written examination merit list was published and 1st merit list was received by Respondent No. 4 from the Directorate of Health Services Mumbai. In the said list the name of the Applicant was not included because from general reserve category of NT (C) another candidate named Mr. Patil Shivswaraj Shahji secured 118 marks. So Mr.*

*Patil Shivswaraj Shahji was selected and appointed as a staff nurse at Sub - District Hospital Shrivardhan Dist. Raigad w.e.f. 23.08.2017.*

*11.5 Thereafter, the 2nd merit list was published and received by Respondent No. 4 from the Directorate of Health Services Mumbai. In the said list the name of the Applicant was included on the Sr.No. 9 in the Open (part Time) category. Accordingly applicant was called up for the counselling on 08-02-2018 along with all concerned certificates / documents vide letter dt. 30-01-2018.*

*11.6 As per the letter Applicant was present for the counselling on 08-02-2018 before the Respondent No.4 and all his documents & certificated were verified **at the same time**. During the verification he could not produce his part -time (Anshkalin ) certificate approved by the Tahasildar / Collector/ District rehabilitation officer or as per the GAD G.R. dated 27-10-2009. He was having only experience certificate Hence as per Schedule "B" "Tapasani suchi / Samupdeshan Namuna " he was declared disqualified for the said post and on the same form he has declared himself " Mazyakade Anshkalin kagadpatre naslyamule apatra rahilo ". The said decision is conveyed to the applicant on the same date vide letter No. 11315-17 dt. 12/14-02-2018.*

*11.7 In this regards it is stated that as per Government Resolution issued by the General Administrative Department dt. 27-10-2009 " Diploma / Degree candidates are provided part time job under " Financial support to educated unemployed "scheme. Under this scheme the candidates are provided part time job in the government sector for 3 years on honorarium. These graduates and post graduates candidates working on honorarium must mention the experience in the employment guidance centres and also on the online application. The selected employees must show their part time (anshkalin) experience certificates during verification of documents by the employment guidance centers.*

11.8 *The above said condition was highlighted in the advertisement on the Sr. No. 10 General conditions -on Sr. No. 20.*

13. *With reference to Para No. 6.7 of the Original Application I say and submit that the contents in the said para are denied by the Respondent No. 4. Applicant is having only regular experience certificate and he does not have part -time (Anshkalin) certificate which is mandatory. Further it is stated that ignorance of law cannot be an excuse, as detailed information regarding part-time certificate is already mentioned in the advertisement on the Sr. No 10 General conditions - on Sr. No. 20.*

13.1 *So also from general reserve category of NT (C) Mr. Patil Shivswaraj Shahji secured 118 marks and Applicant secured 116 marks. So Mr. Patil Shivswaraj Shahji was selected and appointed as a staff nurse at Sub - District Hospital Shrivardhan Dist. Raigad w.e.f. 23.08.2017. ”*

*(Quoted from page 76-82 of OA)*

8. In rejoinder filed by the applicant, he has mentioned that as per the information obtained through RTI he came to know that the scheme of Part-Time was closed in the year 2000 and since the advertisement issued in 2016 mentioned the post for Part-Time category it is bad in law.

9. The applicant has filed additional affidavit mentioning that the first merit list was published on 28.4.2017. However, marks have been increased of certain candidates fraudulently particularly of one Patil Shivswaraj Shahaji. Earlier he had 114 marks but subsequently 4 marks have been increased in his case. This candidate viz. Shri Patil Shivswaraj Shahaji was belonging to NT (C) category and emerged as the selected candidate with 118 marks. On the other hand applicant got 116 marks and there was no increase in his marks and therefore he was not considered. He has alleged that this has been done in violation of the

principles of natural justice, it is illegal and therefore needs to be quashed.

10. The respondents have filed sur-rejoinder. The same reads as under:

*“2.1 Regarding contents of this para, I say and submit that the Respondent No. 2 decided to fill up the vacant posts in Group C cadres in Public Health Department and accordingly, Respondent No. 3 issued necessary instructions to Respondent No.4. A detailed advertisement to fill up vacant posts in Group C cadres available under the control of Respondent 4 was issued on 07.01.2016 (Exhibit G to Original application). Online applications were called through M/s Mahaonline Ltd. from eligible candidates for conducting written examination and to prepare merit list. Written Examination was held on 08.01.2017. To keep the transparency in the whole process of recruitment, Respondent No.3 published Model Answer Keys at the official website of Public Health Department i.e. [www.arogya.maharashtra.gov.in](http://www.arogya.maharashtra.gov.in) and at the official website of M/s Mahaonline Ltd i.e. [maharecruitment.mahaonline.gov.in](http://maharecruitment.mahaonline.gov.in). Further, objections were called from the candidates who were present for written examination, if any. Objections were raised by the few candidates regarding validity/correctness of questions and answers. All these objections were handed over to the committee who were responsible for setting question paper for said written examination. On receipt of their remarks, Final Answer Keys (may be called 1st Answer Key) were prepared and on the basis of these Final Answer Keys, all answer sheets for all cadres were evaluated. Subsequently, these Final Answer Keys (1st) and Result sheets for all cadres were published at the same websites mentioned above on 28.04.2017.*

*2.2 However, few candidates still raised objections over the correctness of the questions, options etc. Considering these objections, Respondent No.1 and 3 decided to refer these objections once again to the committee mentioned above. Committee offered their remarks for each objection and*

*handed over the same to Respondent No.3, on 14.06.2017 for making corrections in the Final Answer Keys (1st). Accordingly, Respondent No. 3 made necessary corrections/changes in the Final Answer Keys (1st) and prepared Revised Final Answer Keys (may be called 2nd Answer Key) and re-evaluated all answer sheets and declared and published revised mark lists on 19.07.2017.*

*2.3 While accepting few objections raised by the candidates, answers of some objected questions changed at the time of revising Answer keys second time. However it was decided that answers marked as correct as per Final Answer Keys (1st) will be treated correct answers whereas marks will be awarded to those who have opted for corrected options as per Revised Final Answer Keys (2nd). As such, marks of few candidates were increased after re-evaluation as per Revised Final Answer Keys (2nd).*

*2.4 It is further submitted that the applicant has mentioned name of Shri Patil Shivswaraj Shahaji ( Hall Ticket No.430700662) and has blamed Respondents that marks of this said Patil was increased by 4 while marks of the applicants was kept as it is.*

*2.5 As mentioned above, all answer sheets were re-evaluated on the basis of Revised Final Answer Keys (2nd). Checking the Final Answer Key (1st) and Revised Final Answer Key (2nd) for the post of Staff Nurse, it can be seen that answers of total 3 questions were revised in this process. Details of questions numbers and their respective answers in Final Answer Key (1st) and in Revised Final Answer Key (2nd) are shown below. (Exh. R-2 & R-4).*

<b>VERSION</b>	<b>QUESTION NO.</b>	<b>ANSER AS PER FINAL ANSWER KEY (1<sup>ST</sup>)</b>	<b>ANSWER AS PER REVISED FINAL ANSWER KEY (2<sup>ND</sup>)</b>	<b>REMARKS</b>
11/22/33/44	2/5/11/8	C	QUESTION	

			OMITTED	
11/22/33/44	13/1/4/10	D	QUESTION OMITTED	
11/22/33/44	17/20/26/23	A	QUESTION OMITTED	
11/22/33/44	55/60/40/50	A	QUESTION OMITTED	
11/22/33/44	57/32/47/42	A	QUESTION OMITTED	
11/22/33/44	22/25/16/28	B	B & D	FULL MARKS WHO HAVE CHOOSE EITHER OPTION B OR D
11/22/33/44	26/23/29/20	A	A & B	FULL MARKS WHO HAVE CHOOSE EITHER OPTION A OR B
11/22/33/44	54/59/39/49	C	C & B	FULL MARKS WHO HAVE CHOOSE EITHER OPTION C OR B

2.6 In this regard, it is further submitted that Applicant were provided Version 22 of question paper whereas Version 33 were provided to Shri Patil. Following chart will clear how the marks of Shri Patil were increased and not that off Applicant.

(A) Statement showing marks awarded to Applicant :-

Question	Answer	Model	Marks	Revised	Marks awarded
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Number in Version 22	marked by Applicant	Answer as per Final Answer Key (1 <sup>st</sup> )	awarded as per Final Answer Key (1 <sup>st</sup> )	answer as per Final Revised Answer Key (2 <sup>nd</sup> )	as per Final Revised Answer Key (2 <sup>nd</sup> )
25	A	B	0	B & D	0 (since answer marked is not correct)
23	A	A	2	A & B	0 (as already marks given)
59	C	C	2	C & B	0 (as already marks given)

(B) Statement showing marks awarded to Shri Patil :-

Question Number in Version 33	Answer marked by Applicant	Model Answer as per Final Answer Key (1 <sup>st</sup> )	Marks awarded as per Final Answer Key (1 <sup>st</sup> )	Revised answer as per Final Revised Answer Key (2 <sup>nd</sup> )	Marks awarded as per Final Revised Answer Key (2 <sup>nd</sup> )
16	B	B	2	B & D	0 (as already marks given)
29	B	A	0	A & B	2 (since option A is correct)
39	B	C	0	C & B	2 (since option C is correct)

2.7 It is submitted that the applicant had secured 116 marks on the basis of Final Answer Key (1st) and since as shown in above table, no change happened after evaluation by using Revised Final Answer Key (2nd). Whereas, Shri Patil had scored 114 marks as per Final Answer Key (1st) and due to re-evaluation as per Revised Final Answer Key (2nd), two answers got right and thus Shri Patil got 4 marks and his total was raised from 114 to 118.

*2.8 Due notifications were uploaded at public health department's website to all above mentioned activities by the Respondent No. 3. However, without taking cognizance of these changes, Applicant has made baseless charges and has tried to defame the Respondents. It is requested to reprimand Applicant for such gross misbehavior."*

(Quoted from page 160-165 of OA)

11. The respondents have prayed that there is no merit in the OA and the same may be dismissed.

Observations and findings:

12. I have examined the advertisement issued by the respondents, online application form filled by the applicant, communication asking him to remain present for counseling, impugned order as well as pleadings filed by the applicant, his rejoinder and additional affidavit.

13. While filling in the application form the applicant admits that he has categorically stated that he is Part-Time category applicant. In his caste he has mentioned as NT(C). Since the applicant had categorically stated that he should be considered in the category of Part-Time the respondents have considered him accordingly. However, as he did not have the necessary supporting documents to show that he belongs to the Part-Time category, the impugned order rejecting his claim has been issued. It is apparent that either by ignorance or by negligence the applicant has not taken efforts to read the advertisement carefully. Advertisement elaborately explains the meaning of Part-Time category and the fact that the certificate for the same validated by the District Collector would be a necessity to obtain the employment. After receiving the impugned order rejecting his claim as Part-Time category as an afterthought he has raised the demand that he should be considered for the NT(C) category. In the

NT (C) category he has secured 116 marks. On the other hand another NT(C) candidate viz. Shri Patil Shivswaraj Shahaji has secured 118 marks. As explained by the respondents initially Shri Patil Shivswaraj Shahaji had 114 marks, however along with others he raised objections to the model key answers. Hence, the respondents, on the advise of experts, have found that he is entitled for 118 marks. Similar corrections have been made in respect of others who had also raised objections. There is no truth that the marks of other candidate viz. Shri Patil Shivswaraj Shahaji have been raised arbitrarily or fraudulently. The allegations by the applicant is an outcome of his frustration in not getting selected. The applicant himself is to be blamed for making incorrect entry in the application form which has resulted in calling him for counseling in the Part-Time category and then being rejected for not furnishing supporting documents. His contention that he should be selected in NT(C) category also does not merit as the other NT(C) candidate has secured higher marks (118) than the applicant, who obtained 116 marks. Respondents have satisfactorily explained how marks of Patil were increased from 114 to 118.

14. The Original Application is therefore without merits.

15. For the reasons stated above, the Original Application is dismissed.  
No order as to costs.

**(P.N. Dixit)**  
**Vice-Chairman (A)**  
**14.1.2020**

Dictation taken by: S.G. Jawalkar.