

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL**

**MUMBAI**

**ORIGINAL APPLICATION NO.908 OF 2024**

**(O.A. No.759/2024-Aurangabad)**

**DISTRICT : BEED**

Mahesh Narayan Bangar, )  
Age 25 years, occ. Service, R/at Anandgav, )  
Post Padali, Taluka Shriur (Kasar), District Beed )..Applicant

Versus

1. The State of Maharashtra, )  
Through Secretary, )  
Medical Education & Drugs Department, )  
G.T. Hospital Premises, 9<sup>th</sup> Floor, )  
L.T. Road, Mumbai 400002 )
2. Directorate of Medical Education & Research, )  
4<sup>th</sup> Floor, Govt. Dental College & Hospital Bldg., )  
St. George's Hospital Compound, Fort, Mumbai )
3. Commissioner, Medical Education and )  
Research & AYUSH, )  
4<sup>th</sup> Floor, Govt. Dental College & Hospital Bldg., )  
St. George's Hospital Compound, Fort, Mumbai )
4. Government Medical College & Hospital, )  
Through its Dean, Baramati )..Respondents

Shri Ketan Pote holding for

Shri A.G. Ambetkar – Advocate for the Applicant

Ms. S.P. Manchekar – Chief Presenting Officer for the Respondents

CORAM : Smt. Justice Mridula Bhatkar, Chairperson  
Smt. Medha Gadgil, Member (A)

DATE : 29<sup>th</sup> July, 2024

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

1. Applicant challenges the order dated 16.7.2024 issued by respondent no.3 whereby his appointment order dated 25.3.2024 as Staff Nurse is cancelled.

2. After going through the papers we have come across that applicant was given appointment under the Special Learning Disability (SLD) category however the applicant does not have that particular disability but he is having Low Vision Disability.

3. Ld. Advocate for the applicant states that the applicant holds the certificate of Low Vision Disability. His name appeared in the select list of SLD category and thereafter the applicant has informed the Govt. that he is not from SLD category but he is having the disability of Low Vision and he is going to submit such certificate. Accordingly, he submitted the certificate of Low Vision and his medical is completed prior to March 2024 and his name appeared in the select list and was given appointment on 25.3.2024. He joined as Staff Nurse on 28.6.2024 and was holding the post. By order dated 16.7.2024 the Government cancelled the appointment of the applicant on the ground that his disability is not from the category which was mentioned. Ld. Advocate submits that applicant has applied under SLD category as there was no option in the application

form for applying under the Low Vision category. He states that he is not having SLD and the authorities have verified and checked the certificate of Low Vision and gave the appointment which cannot be now cancelled. Ld. Advocate for the applicant relies on the judgment of the Hon'ble Supreme Court in **Union of India & Anr. Vs. National Federation of the Blinds & Ors. 2013 AIR SCW 5655.**

4. Ld. CPO submits that the applicant has suppressed the fact of Low Vision Disability and therefore the impugned order is rightly passed.

5. We have heard both the sides. In the advertisement dated 10.5.2023, 3974 posts for Staff Nurse were advertised out of which 159 posts were reserved for disabled persons. The reservation clause reads as under:

दिव्यांग ४%	एकूण १५९ पदे दिव्यांगासाठी राखीव: (a)५३ पदे - एकहातअपंग (OA- ONE ARM), एक पायअपंग (OL - ONE LEG), मेंदूशी संबंधित अर्धांगवायू (CP-CEREBRAL PALSYP), कुष्ठरोगबराझालेली व्यक्ती (LC -LEPROCY CURED), बुटकेपणा (DW-DWARFISM), अॅसिडहल्ल्याचाबळी (AAV-ACID ATTACK VICTIM), (b) ५३पदे - विशेषअध्ययनअक्षमता (SLD-SPECIAL LEARNING DISABILITY), (c) ५३पदे - एकाधिकअपंगत्व MD (MD Multiple Disabilities) involving (a) to (b) above
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6. In the advertisement there is no mention of this particular disability of Low Vision for this post. It appears that for Staff Nurse the disability of Vision is not found suitable to the State Government and therefore nobody from that type of disability can be considered as eligible person. However, the persons from other disability are considered by giving specific breakup of disability. Ld. Advocate for the applicant argued that applicant has disclosed that he does not fall in SLD but he has Low Vision Disability and despite the said disclosure prior to document verification, his name appeared in the merit list as well as select list and therefore it is arbitrary

on the part of the State Government to discontinue his appointment, this argument is wrong and cannot be accepted at all. The applicant was aware of his own disability of Low Vision and he declared his disability as SLD. This is not only suppression of the fact, but he also made a false statement at the time of filling application. He has disclosed this fact at the time of document verification; this argument is not sustainable at all.

7. The Hon'ble Supreme Court in *National Federation of the Blinds* (supra) has expressed that the State has to consider overall 4% disabled while selecting a candidate and Section 33 does not distinguish the manner of computation of reservation between Group A and B posts or Group C and Group D posts respectively. Ld. CPO rightly pointed out that Section 33 pertains to Old Act of 1996 and thereafter Act was amended in 2016 where 4% reservation was mentioned under Section 34. Moreover, it is for the State who takes policy decision considering the nature of the functions and the performance required for a particular post, which disabled person can be suitable and appointed. So also it is the State by GR dated 17.6.2021 in Medical Education & Drugs Department has identified suitable post for particular disability.

8. Therefore, we summarily reject the interim relief and also the Original Application itself. However, we direct the respondents to look into the matter and found out who and why such appointment was given to the applicant. No order as to costs.

Sd/-

**(Medha Gadgil)**  
**Member (A)**  
**29.7.2023**

Sd/-

**(Mridula Bhatkar, J.)**  
**Chairperson**  
**29.7.2023**

Dictation taken by: S.G. Jawalkar.