

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 4740 OF 2017

Shantsheela Uttamrao Chaudhari
and others

.. Petitioners

Versus

The State of Maharashtra and others .. Respondents

Shri Sachin S. Deshmukh, Advocate for the Petitioner.

Shri P. S. Patil, Addl.G.P. for Respondent Nos. 1 and 2.

Shri A. D. Adhav, Advocate for the Respondent No. 3.

**CORAM : S. V. GANGAPURWALA AND
A. M. DHAVAL, JJ.**

DATE : 09TH APRIL, 2018.

FINAL ORDER :

. Mr. Deshmukh, the learned counsel for petitioners submits that, the petitioner Nos. 1 to 5 are non matriculate and the petitioner No. 6 is matriculate. They were not considered for promotional post of lady health visitor. The petitioners were working as Auxilary Nurse Midwife (A.N.M.). According to the learned counsel this Court in its judgment and order dated 21.07.2010 in Writ Petition No. 1162 of 1994 has specifically observed that, prior to 1982 the S.S.C. qualification was not required for appointment as A.N.M and they can be sent for promotional training. According to the learned counsel, once

same benefit is given to the similarly situated persons, the petitioners cannot be discriminated. The learned counsel relies on the judgment of this Court dated 20.03.2018 in Writ Petition No. 11424 of 2014.

2. Mr. Aghav, the learned counsel for the respondent No. 3 submits that, the circular dated 07.02.1994 does not permit those who are non matriculate for being sent for training. The petitioners have all retired long back. There is nothing on record to suggest that the posts of lady health visitors were vacant and that those petitioners were not considered.

3. Minimum qualification for the course of A.N.M. was initially 07th standard. The same was raised to S.S.C. in October 1982. The petitioner Nos. 2 to 5 are appointed after 1982. In view of that, naturally their case could not have been considered. As far as petitioner No. 6 is concerned, the petitioner No. 6 has passed matriculation.

4. There is nothing before us to suggest that, when the post of A.N.M. become vacant and that these petitioners were at the relevant time in the zone of consideration and/or that petitioners were erroneously not promoted. As far as the petitioner No. 1 is concerned, the petitioner No. 1 was appointed in the year 1975 and has retired more than twelve years back. It would be too late

in the day to consider the case of petitioners. The promotion is not a fundamental right. To be considered for promotion is a right, however, all the relevant aspects will have to be considered. All this material is not before the Court. All these petitioners have retired long back. In view of that, no relief can be granted to the petitioners. The writ petition is disposed of. No costs.

[A. M. DHAVALA, J.]

[S. V. GANGAPURWALA, J.]

bsb/April 18