

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P. (S) No. 222 of 2015

Sangita Kumari, wife of Sri Manoj Prajapati, presently posted as ANM, Community Health Centre, Bishrampur, P.O. & P.S. Bishrampur, District Palamau (Jharkhand).

.... Petitioner

Versus

1.The State of Jharkhand.

2. The Principal Secretary, Department of Health, Medical Education & Family Welfare, Government of Jharkhand Nepal House, P.O. & P.S. Doranda, District Ranchi.

3. The Joint Secretary, Department of Health. Medical Education & Family Welfare, Government of Jharkhand Nepal House, P.O. & P.S. Doranda, District Ranchi.

4. The Deputy Commissioner, Palamu, P.O. & P.S. Medninagar, District Palamu.

5. The Civil Surgeon-cum-Chief Medical Officer, Palamu, P.O. & P.S. Medninagar, District Palamu.

.... Respondents

With

W.P. (S) No. 293 of 2015

Nisha Kumari, wife of Sri Ram Vinay Prasad posted as ANM, Primary Health Centre, Chainpur, P.O. & P.S. Chainpur, District-Palamau (Jharkhand)

....Petitioner

Versus

1.The State of Jharkhand.

2. The Principal Secretary, Department of Health, Medical Education & Family Welfare, Government of Jharkhand Nepal House, P.O. & P.S. Doranda, District Ranchi.

3. The Joint Secretary, Department of Health. Medical Education & Family Welfare, Government of Jharkhand Nepal House, P.O. & P.S. Doranda, District Ranchi.

4. The Deputy Commissioner, Palamu, P.O. & P.S. Medninagar, District Palamu.

5. The Civil Surgeon-cum-Chief Medical Officer, Palamu, P.O. & P.S. Medninagar, District Palamu.

.... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK ROSHAN

For the Petitioner : Mr. Manoj Tandon, Adv.

Mr. Siddharth Ranjan, Adv

For the Resp.-State : Mr. Shubham Mishra, Adv

Mr. Kunal Chandra Suman, A.C. to G.P.-II

11/18.09.2025

Pursuant to the order dated 4th September, 2025

Mr. Anil Kr. Srivastwa, Civil Surgeon-cum- Chief Medical officer, Palamu is present before this Court.

2. The only issue involved in this writ application is that though the State of Jharkhand came up with a resolution that all the ANM candidates who have completed five years of service shall be regularized, in view of existing circular of the State of Jharkhand which is applicable in the case of appointment; the case of the petitioners was not considered.

3. From record it appears that the case of these petitioners has not been considered due to the reason that though they belong to reserved category but since they were having their residential certificate outside the State of Jharkhand, they were not given the benefit of reserved quota.

4. Vide order dated 4th September, 2025 this Court has directed the respondent-State to clarify the quarries made in the said order. For brevity order dated 4th September, 2025 reads as follows;

“It appears that for the purpose of regularization in pursuance to Annexure-2 which is the Regularization Rule dated 30.01.2014 the respondents have adjusted the reserved quota candidate in the general category and as a result thereof; the reserved seats remained vacant, inasmuch as, in the reserved quota there were 61 seats for Scheduled Caste, whereas they have regularized only six candidates and as a result thereof 55 seats remained vacant.

By going through the list in the same Annexure-8 it is evident that many BC-II, BC-I, SC candidates have been regularized under general category. This action appears to be either misconceived or with some ulterior motives. The aforesaid view prima facie is due to the fact that so far as Regularization Rule dated 30.01.2014, there was no such criteria as mentioned in clause 4 of the said rule.

Pursuant to the earlier order, a supplementary affidavit has been 2 filed on the point that except in the district of Palamau in all other district the said regularization policy has been duly followed and only in the case of Palamau a new formula has been initiated by the competent authority which does not find place in the regularization policy which has been issued in accordance with Article 309 of the Constitution of India.

Accordingly, on this aspect, learned counsel for the respondents is directed to satisfy this Court and decide the lis involved in this case. It is also necessary to see the result of the candidates who have been regularized and/or rejected. As such, learned counsel for the

respondents would be ready with the original record on the next date of hearing along with a responsible officer in order to answer the queries which may arise on the next date of hearing.

List these cases on 18.09.2025 at 2:15 PM.”

5. Today, Mr. Anil Kr. Srivastwa, Civil Surgeon-cum- Chief Medical officer, Palamu has appeared. A question was put before him with regards to granting the reservation to these petitioners; he replied that since they belong to the other State; as such, they are not entitled for reservation.

However, when a specific query was made that as per notification dated 30.01.2014; there was a specific stipulation in clause-IV that all the ANM working at that time who are having more than 5 years of experience shall be regularized, then why these petitioners have not been regularized, in spite of the fact that there are still several seats vacant in the reserved category and many of the persons who belong to reserved category, have been appointed under the general category; he could not answer the query.

6. With regard to the above query, Ld. Counsel for the respondent-State tries to impress this Court that they have taken resort to resolution which deals with appointment of ANM or other Class-III and IV employees; but the fact remains that one line of the notification dated 30.01.2014 reads as under; **“4..... विभाग मे विभागीय संकल्प सं० 631 (4)**

दिनांक 21.12.2004 के अलोक मे संविदा के आधार पर नियुक्ति सभी कर्मी विभाग मे उस पद पर नियमित नियुक्ति के लिए पात्र होगा.....”

and further in **4 (ख)** of the same notification, a condition is stipulated that **“उसने विभाग मे कम से कम पाँच वर्ष की वास्तविक संविदा सेवा पूर्ण कर ली हो तथा वह नियमित नियुक्ति की तारीख तक निरंतर सेवा मे हो”.**

7. It appears that the reliance of the said notification by the State which was initially for the purpose of appointment has been taken in entirety by the State in the instant case; ignoring the two aforesaid conditions.

This observation is supported by the reason that still there are number of vacant seats. As a matter of fact, vide order dated 05.02.2024, this Court on the contention of the Petitioners that in other districts, reservation policy has not been taken into consideration while regularizing the services of ANM but it is only the District of Palamu, the Respondents have adopted the reservation policy and pursuant to the said contention, this Court has directed the respondent-State to file an affidavit. For brevity, order dated 05.02.2024 is extracted herein below;

“Heard the parties at length.

It has been brought to the notice of the Court by learned counsel for the petitioners that in other districts of State of Jharkhand, reservation policy has not been taken into consideration while regularizing the services of ANMs but it is only in the District of Palamau, the respondents have adopted reservation policy and on non est ground they have turned down the cases of petitioners.

Under such circumstances, the respondent-State is directed to file a specific affidavit stating therein as to whether the reservation policy has been adopted in other Districts of Jharkhand also while considering the case of ANMs for regularization of their service or whether the same was adopted only in the District of Palamau.

Let both the cases be listed on 19.02.2024, under the same heading.”

8. Pursuant to the aforesaid order, a supplementary counter-affidavit has been filed; wherein the following averments have been made which made the case crystal clear that the stand of the Respondents is incorrect or at least is against the settled proposition of equality before law. For brevity para 6, 7 and 8 of the order dated 05.02.2024 passed by this Court is extracted herein below:-

"6. That it is stated and submitted that the Case was heard on 05-02-2024 and the Hon'ble Court passed on order as such:-

"It to the has been brought notice of the Court by learned counsel for the petitioners that in other districts of State of Jharkhand, reservation policy has not been taken into consideration while regularizing the services of ANMS but it is only in the District of Palamu, the respondents have adopted reservation policy and on non est ground they have turned down the cases of petitioners. Under such circumstances, the respondent -State is directed to file a specific affidavit stating therein as to whether the reservation policy has been adopted in other Districts of Jharkhand also while considering the case of ANMS for regularization of their service or whether the same was adopted only in the District of Palamu".

7. That it is stated that letter no 687, Medininagar, dated 28-02-2024 of this office was sent to Civil Surgeon-Cum-CMO Garhwa, Latehar and Chatra Districts to know about the reservation policy adopted for regularization by the said districts.

8. That it is stated that in reply to the aforesaid letter, the Civil Surgeon cum Chief Medical Officer, Garhwa vide its letter no. Garhwa, dated 535, 07.03.2024 informed as follows:-
informed as follows:-

" स्वास्थ्य विभागीय अधिसूचना संख्या 29 (10) दिनांक 30.01.2014 के आलोक में संविदा के आधार पर नियुक्त सभी कर्मियों को जिला चयन समिति के माध्यम सभी संविदा कर्मों को नियमित नियुक्ति हेतु चयन किया गया था तथा आरक्षण रोस्टर के अनुसार रिक्त पदों पर समायोजित करते हुए चयनित सभी संविदा कर्मों की नियमित नियुक्ति की गयी थी।"

9. From perusal of the above, it is evident that on the one hand; admittedly, in all other districts excepts in the District of Palamu, the State Respondent has not taken the criteria of reservation; and on the other hand, in the District of Palamu itself, number of seats were initially vacant under reserved category and from perusal of record it is crystal clear that the reserved candidates have been given appointment under unreserved category leading thereto fulfillment of all seats under unreserved category.

10. Further, during course of argument this Court has asked a specific question from the State Counsel and also from the Civil Surgeon that what was the criteria for fixing the minimum marks. Both replied that though the procedure

was given how to give the marks but there were no specific criteria to fix the cut off marks.

Normally in case of limited seats; there has to be a cut off marks in order to select better candidates from the masses in the matter of appointment, but in the instant case, same was not required.

11. In the instant case, on the one hand; it is a case of regularization and on the other hand, there are so many seats which are still vacant. Therefore, non-regularizing the respective Petitioners on the ground that they do not belong to reserve category does not appeals to this Court and as aforesaid, having regard to the supplementary counter-affidavit dated 16.03.2024, when in other Districts the Respondents have given appointment to all the ANMs; there is no reason why these Petitioners would be denied such benefits.

12. Accordingly, both these petitions stand allowed. The impugned order dated 17.10.2014, is quashed and set aside to the extent that the claim of these petitioners for the regular appointment has been rejected. The Respondents are directed to issue an order of regularization within a period of 8 weeks from the date of receipt/production of copy of this order.

As a result, both these applications stand disposed of in the manner indicated hereinabove. Pending I.A., if any, also stands disposed of.

(Deepak Roshan, J.)

September 18, 2025

Amardeep/-
AFR

Uploaded on
14/10 //2025

