

(2025) 07 PAT CK 1304

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No.4663 of 2025

Priyanka Sharma

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 18-07-2025

Acts Referred:

Citation : (2025) 07 PAT CK 1304

Hon'ble Judges : Anil Kumar Sinha, J

Bench : Single Bench

Advocate : Sudhir Kumar Tiwary, Bindhyachal Rai, Additional Solicitor General

Final Decision : Disposed Of

Judgement

Anil Kumar Sinha, J

1. The present writ application has been filed for a direction to the authorities of AIIMS, Patna to permit the petitioner to appear in the supplementary examination to be held from 21st July, 2025.

2. I.A. No. 1 of 2025 has been filed by the petitioner with a prayer to allow the petitioner to appear in the II Year M.Sc. Nursing Final Examination July 2025 to be held between 21.07.2025 to 26.07.2025.

3. Brief facts giving rise to the present writ application is that the petitioner was enrolled in M.Sc. Nursing Course at College of Nursing AIIMS, Patna for the academic session 2022-2024. The course started on 16.09.2022 and was to be completed after two years in September, 2024. After passing her 1st year examination, the petitioner was promoted to 2nd year of the course and continued to pursue her course in the 2nd year till June, 2024. While pursuing her 2nd year studies the petitioner on the basis of her qualification of B.Sc. Nursing Course applied for Short Service Commission in Military Nursing Service and was selected into the service. In furtherance of her selection she submitted an application dated 27.05.2024 to the Executive Director, AIIMS, Patna

requesting leave of 1½ month to undergo induction training. Thereafter, she joined the Military Hospital at Jalandhar on 02.06.2024. The petitioner applied to Military Hospital, Jalandhar seeking sixty days leave in order to complete the academic session and to appear in the final examination at AIIMS, Patna which was granted by the hospital. The final examination of the session 2022-2024 was scheduled in September, 2024 but due to her prolonged absence for about two months her attendance fell short of the prescribed threshold and she was not permitted by AIIMS, Patna to appear in the final examination held between 18.09.2024 to 24.09.2024. Being aggrieved by the same, the petitioner submitted a representation before the Dean Academics, AIIMS, Patna on 20.09.2024 requesting her to permit to appear in the supplementary examination as per Rule 19(I)(5) of the Rules and Regulations of M.Sc. Nursing Academic Courses, AIIMS, Patna (hereinafter referred to as the "M.Sc. Nursing Rules").

4. Mr. Sudhir Kumar Tiwary, learned counsel appearing for the petitioner referring to Rule 19(I)(5) of the M.Sc. Nursing Rules submits that the said Rule specifically permits the conduct of a supplementary examination for candidates who failed to attend the final examination due to any reason and such candidate shall be allowed to appear in the next subsequent supplementary examination which shall be conducted within six months.

5. After selection in the Military Nursing Services the petitioner duly intimated the institute by letter dated 25.06.2024 informing the institute about her selection and sought leave for 1½ months for induction training. The last examination was held in September, 2024 in which petitioner was not allowed to participate and now within six months final examination schedule has been announced for the session 2023-25 which is to commence from 21.07.2025. The petitioner at present is on leave from the Military Hospital, Jalandhar and as per the regulation the petitioner may be allowed to participate in the examination of M.Sc. Nursing Final Examination July 2025 course to be held from 21.07.2025 which can be treated as supplementary examination for the petitioner

6. On the other hand, Mr. Bindhyachal Rai, learned counsel for the respondents opposed the writ application primarily on the ground that M.Sc. Nursing course is a full time two year continuous programme requiring minimum 80% attendance in theory and practical as per Rule 5(ii) and 18(ii) of the M.Sc. Nursing Rules.

7. In the 2nd year of M.Sc. Nursing Course the petitioner remained absent for about eighty days resulting in shortage of attendance of the petitioner. As per rule Rule 18(ii), 80% attendance in theory and practical paper is required and petitioner has only 75% attendance in Nursing Management Subject, 63% in theory and 71% in practical in Psychiatry Nursing -II subject. The petitioner during her induction training at the Military Hospital, Jalandhar requested for forty eight days leave i.e. from 15.06.2024 to 01.08.2024 via e-mail dated 26.06.2024 however the said request was not approved by the competent authority at AIIMS, Patna.

8. Learned counsel further submits that Rule 9(iii)(a) permits only thirty days annual extended leave and absence beyond this period leads to postponement of examination by six months as per Rule 9(iii)(b).

9. The petitioner is a full time Commissioned Officer serving as Lieutenant in the Military Nursing Service hence full time academic course and full time employment at the same time cannot be permitted as per Rule 5(ii) read with Rule 13(b) of the M.Sc. Nursing Rules.

10. The petitioner without giving any prior intimation to the AIIMS, Patna administration applied for Short Service Commission in the Military Nursing Service on the basis of her B.Sc. Nursing qualification. Upon selection, the petitioner proceeded to join the Military Hospital, Jalandhar during the pendency of her academic course and did not obtain any prior approval or sanction of the competent authority at AIIMS, Patna. It is further submitted that such conduct on part of the petitioner i.e. applying for and joining a full time government service without requisite permission constitutes breach of institutional discipline and regulatory requirements specially in a professional medical course that requires continuous attendance and clinical engagement. Learned counsel next submits that the case of the petitioner was placed before the Standing Academic Committee of AIIMS, Patna in its 9th meeting held on 06.09.2024 where it was decided that no provision exists to allow the petitioner to continue the M.Sc. Nursing Course, who has taken up full time employment as a Commissioned Officer in the Indian Army and it was further concluded that the petitioner may be allowed to discontinue the course. Learned counsel relies on a judgment of the Delhi High Court passed in W.P. (C) No. 6814 of 2011 Neeraj Bahl Vs Guru Gobind Singh Indraprastha University and the judgment of the Madras High Court passed in the case of The Controller of Examination, Anna University of Technology, Trichy District versus N.W. Fathimaa Sanam reported in 2012 SCC OnLine Mad 2425.

11. I have heard learned counsel for the parties and have gone through material on record including relevant regulations. The petitioner was duly admitted to M.Sc. Nursing Course at AIIMS, Patna for the academic session 2022-2024 and had successfully completed her 1st year before being promoted to the 2nd year. During 2nd year, at the fag end, the petitioner was selected for the Short Service Commission in the Military Nursing Service. She duly intimated the institute through letter dated 25.06.2024 seeking leave for induction training but the respondent authorities did not give any heed to the request of the petitioner. The petitioner took leave from the Army hospital for appearing in the final examination which was held from 18.09.2024 to 24.09.2024 but she was debarred from appearing in the final examination on the ground of shortage of attendance. The petitioner submitted a representation seeking permission to appear in the supplementary examination which was also not entertained by the respondents. The contention of the respondents that Rule 19(5) must be read in conjunction with Rule 18(2) of the M.Sc. Nursing Rules which mandates a

minimum of 80% attendance for appearing in the final examination cannot be accepted. A plain reading of the Rule 19(5) of the M.Sc. Nursing Rules shows that it specifically provides for conduct of a supplementary examination and permits a candidate who failed to attend the final examination due to any reason whatsoever to appear in the next supplementary examination to be conducted within six months. The language of the rule is unambiguous and does not prescribe any pre-condition of 80% attendance for appearing in the supplementary examination. From the date of last examination held in September, 2024 in which the petitioner was debarred, the present examination is going to be held from 21.07.2025 within a period of about six months and it can be said to be a supplementary examination for the petitioner. If the rule making authority had intended to incorporate attendance threshold even for supplementary examination it would have expressly provided in the regulation, reading such an implied restriction into the rule cannot be permitted.

12. In the aforesaid context a beneficial and purposeful interpretation of Rule 19(5) of the M.Sc. Nursing Rules is required in order to advance the object of candidate's academic career rather to frustrate it through hyper technical or restrictive construction. One of the objections raised by the respondents pertains to the petitioner's dual engagement i.e. simultaneous full time employment and full time academic course which is impermissible. However upon reading of the restrictions under Rule 13(b) of the M.Sc. Nursing Rules it appears that the same prohibits private practice in any form while pursuing the course. This is not applicable in the facts of the present case as the petitioner's engagement in the Military Nursing Service cannot be construed as a private practice. It is also not case of the respondents that the petitioner was engaged in full time employment at the time of her admission in M.Sc. Nursing course. The material on record indicates that the petitioner joined the course in September, 2022 and successfully passed the 1st year examination and was promoted to the second year. In the 2nd year also she attended her classes and has attendance upto about 75% which is less than required percentage of attendance of 80%. She failed to attend her classes at the fag end of 2nd year course due to her employment in the Military Nursing Service and at that point also the petitioner sought leave for induction training which was not allowed by the respondents authority.

13. The issue at hand is limited to the period towards the fag end of her academic career inasmuch as the petitioner went for induction training in June, 2024 and the course of 2nd year was to be completed in August, 2024. Furthermore, Rule 9(iii)(b) of the M.Sc. Nursing Rules provides grant of thirty days of authorized leave which must also be kept in mind while assessing the petitioner's attendance and eligibility. The judgment relied upon by the learned counsel for the respondents are not applicable in the facts and circumstances of the present case.

14. Taking into consideration the conspectus of facts discussed hereinabove, this

Court is of the considered view that the petitioner deserves an opportunity to appear in M.Sc. Nursing Final Examination July 2025 which is schedule to commence from 21.07.2025. Accordingly, the respondent nos. 2 to 5 are directed to allow the petitioner to appear in M.Sc. Nursing Final Examination July, 2025 to be held from 21.07.2025. The necessary document / Admit Card must be issued in favour of the petitioner by tomorrow (19.07.2025) to enable her to appear in the examination.

15. With the aforesaid observation and direction, this writ application is disposed.