



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 02.09.2020

Delivered on: 23.09.2020

C O R A M

The Hon'ble Mr. A.P.SAHI, THE CHIEF JUSTICE
and
The Hon'ble Mr. Justice SENTHILKUMAR RAMAMOORTHY

Writ Petition Nos.6940, 6943 and 10332 of 2020
and

WMP Nos.8283, 8284, 8286 and 12557 of 2020

D.Velazhagan ... Petitioner in
W.P. Nos.6940 & 6943 of 2020)

vs

1.State of Tamil Nadu
Represented by its Chief Secretary,
Fort St. George, Chennai.

2.State of Tamil Nadu,
Represented by Principal Secretary to Government,
Environment and Forests Department,
Fort St. George, Chennai.

3.Tamil Nadu Pollution Control Board,
Represented by Chairman,
76, Anna Salai, Guindy Industrial Estate,
Race View Colony, Guindy,
Chennai-600 032.

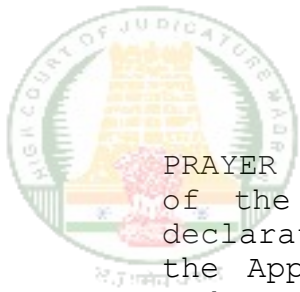
... Respondents in
(W.P. Nos.6940 & 6943 of 2020)

G.Thamizharasu ... Petitioner in W.P. No.10332 of 2020
vs.

1. The Government of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Environment and Forest Department,
Secretariat, Fort St. George,
Chennai-600 009.

2. The Tamil Nadu Pollution Control Board,
Rep. By its Chairman,
76, Mount Salai,
Guindy, Chennai-600 032.

... Respondents in
W.P. No.10332 of 2020



PRAYER in W.P.No.6940 of 2020 : Petition filed under Article 226 of the Constitution of India, praying to issue a writ of declaration, declaring Rule 2(4)(b)(3)(ii) and 2(4)(b)(3A) of the Appointment of Chairman and Member Secretary of the Tamil Nadu Pollution Control Board Rules, 2019 as ultra vires the Water (Prevention and Control of Pollution) Act, 1974, Air (Prevention and Control of Pollution) Act, 1981 and the Constitution of India.

PRAYER in W.P.No.6943 of 2020 : Petition filed under Article 226 of the Constitution of India, praying to issue a writ of certiorari calling for the records of the second respondent culminating in Notification dated nil bearing number No.01/MS/TNPCB/2020 calling for applications for the post of Member Secretary of the third respondent, quash the same.

PRAYER in W.P.No.10332 of 2020 : Petition filed under Article 226 of the Constitution of India, praying to issue a writ of declaration, declaring Rule 2(4)(b)(3A) of the Appointment of Chairman and Member Secretary of the Tamil Nadu Pollution Control Board Rules, 2019 as being Unconstitutional and ultra vires the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981.

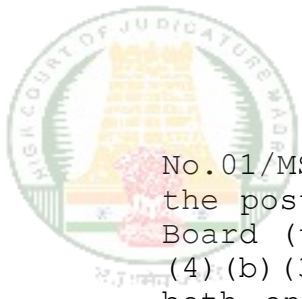
For Petitioner : Mr.A.Yogeshwaran for
Ms.B.Poongkhulali in
WP.No.6940 & 6943 of 2020
Mr.G.Arulmurugan in WP.No.10332 of 2020

For Respondents : Mr.Vijay Narayan, Advocate General
Assisted by Mr.V.Jayaprakash Narayanan
Government Pleader for R1 & R2 in
W.P.Nos.6940 & 6943 of 2020 & for R1 in
W.P.No.10332 of 2020 and
Mr.N.Manohanan for R3 in W.P.Nos.6940
& 6943 of 2020 and for R2 in W.P.No.10332
of 2020

C O M M O N O R D E R

SENTHILKUMAR RAMAMOORTHY J.,

In W.P. Nos.6940 of 2020, the validity of Rules 2(4)(b)(3)(ii) and 2(4)(b)(3A) of the Appointment of Chairman and Member Secretary of the Tamil Nadu Pollution Control Board Rules, 2019 (the TNPCB C & MS Appointment Rules) is challenged both on the ground that it is unconstitutional and ultra vires the Water (Prevention and Control of Pollution) Act, 1974 (the Water Act) and the Air (Prevention and Control Pollution) Act, 1981 (the Air Act). W.P. No.6943 of 2020 is filed for a writ of certiorari to quash the notification bearing



No.01/MS/TNPCB/2020 in respect of calling for applications for the post of Member Secretary of the Tamil Nadu Pollution Control Board (the TNPCB). In W.P. No.10332 of 2020, validity of Rule 2 (4) (b) (3A) of the TNPCB C & MS Appointment Rules) is challenged both on the ground that it is unconstitutional and ultra vires the Water Act and the Air Act.

2. As is evident from the above, the dispute pertains to the TNPCB C & MS Appointment Rules. The TNPCB C & MS Appointment Rules were framed in exercise of powers conferred by Sections 64 (2) (e) of the Water Act. The challenge is focused on two aspects. The first aspect is the requirement that the Member Secretary should have 25 years field experience in environmental protection and enforcement of environmental legislation. The relevant rule in this regard is Rule 2(4) (b) (3) which is as under:

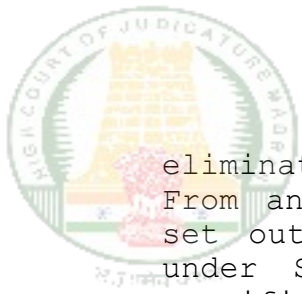
3.	Qualification and Experience	(i) Must possess a Post Graduate Degree in Engineering or Technology in Environmental Engineering or allied Sciences. (ii) 25 years field experience in Environmental Protection and Enforcement of Environmental Legislation. [emphasis added]
----	------------------------------	---

3. The Petitioners do not have any reservation or objection in respect of the qualification specified in Rule 2(4) (b) (3) (i), namely, the educational qualification requirement, but have strong objection to the "enforcement of environmental legislation" requirement in Rule 2(4) (b) (3) (ii).

4. In addition, the amendment to Rule 2(4) (b) on 29.01.2020 whereby clause 3A was inserted specifying an age limit is under challenge. The said clause 3 A is as under:
Rule 2 (4) (b) 3 A:

"Age limit - Must not have completed 55 years".

5. The main basis of challenge to the experience criterion is that it has the effect of excluding highly qualified candidates who would be eminently suitable to discharge the functions of a Member Secretary. According to the Petitioners, it would effectively convert a selection post into a promotional post because only persons who are employed in the TNPCB would satisfy the requirement of having 25 years field experience in environmental protection and enforcement of environmental legislation. As a consequence, this rule would



eliminate everyone except persons already employed by the TNPCB. From an ultra vires perspective, the basis of challenge is as set out below. These rules were framed in exercise of powers under Section 64(2)(e) of the Water Act. The Water Act specifies the qualification of a Member Secretary in Section 4(2)(f) of the Act. The said Section 4(2)(f) is as under:

"A full time Member Secretary, possessing qualifications, knowledge and experience, scientific, engineering or management aspects of pollution control to be appointed by the State Government."

6. The contention of the Petitioners is that Section 4(2)(f) does not mandate that a Member Secretary should have 25 years field experience both in environmental protection and the enforcement of environmental legislation.

7. By incorporating such an experience criterion, the State Government in exercise of delegated legislation, has exceeded the scope and ambit of the parent legislation. Consequently, Rule 2(4)(d)(3)(ii) is ultra vires Section 4(2)(f) of the Water Act and Sections 4 and 5 of the Air Act. With regard to the age requirement, it is contended that the prescription of an upper age limit of 55 years would once again exclude competent and experienced candidates especially when viewed in the context of the requirement of 25 years of field experience both in environmental protection and enforcement of environmental legislation. The present writ petitions are filed in these facts and circumstances.

8. We heard Mr. Yogeshwaran, the learned counsel who appeared for Ms.B. Poongkhulali, the learned counsel for the Petitioner in W.P. Nos. 6940 and 6943 of 2020 ; Mr. G. Arul Murugan, the learned counsel for the Petitioner in W.P. No. 10332 of 2020; Mr.Vijay Narayan, the learned Advocate General for Respondents 1 and 2 in W.P. Nos.6940 & 6943 of 2020 and for Respondent 1 in W.P. No.10332 of 2020; and Mr.N.Manoharan, learned counsel for Respondent 3 in W.P. Nos.6940 & 6943 of 2020 and for Respondent 2 in W.P. No.10332 of 2020.

9. At the outset, Mr. Yogeshwaran clarified that W.P. Nos.6940 and 6943 of 2020 are not public interest litigations; instead, they are filed by a postgraduate in environmental engineering, who was previously an Assistant Environmental Engineer of the TNPCB, for declaratory relief qua the TNPCB C&MS Appointment Rules. Therefore, these petitions are maintainable. With the above preamble, Mr.Yogeshwaran advanced the first contention, namely, that Rule 2(4)(b)(3)(ii) of the TNPCB C&MS Appointment Rules is ultra vires Section 4(2)(f) of the Water Act. In order to substantiate this contention, he invited our



attention to the said Section 4(2)(f). He pointed out that Section 4(2)(f) deals with the qualifications of the full time member secretary of state pollution control boards. He contended that it specifies that the full time member secretary should possess qualifications, knowledge and experience in respect of the scientific, engineering or managerial aspects of pollution control. It does not specify that the full time member secretary should have experience in the enforcement of environmental legislation. Consequently, he contends that the stipulation of 25 years field experience in environmental protection and enforcement of environmental legislation is ultra vires Section 4(2)(f) of the Water Act. For the same reasons, it is ultra vires Sections 4 and 5 of the Air Act, which draw reference to the Water Act and are in pari materia. His second contention was that the TNPCB C&MS Appointment Rules are in violation of the judgment of the Hon'ble Supreme Court in *Techi Tagi Tara v. Rajendra Singh Bhandari* [2018 (11) SCC 734] (*Techi Tagi Tara*). In support of this contention, he referred to paragraphs 24, 25, 31 to 35 of the said judgment wherein the Hon'ble Supreme Court emphasized the fact that the State Government should appoint experts in the field, who are professionals, as member secretary or chairman of the respective pollution control boards and such appointment should be preceded by extensive deliberation. Paragraphs 24-25; 31-35 of the said judgment are relevant and are as under:

“ 24. On the second grievance relating to the issue of guidelines by the NGT, the meat of the matter concerns the appointment of officials who are experts in their field and are otherwise professional. This is for each State Government to consider and decide what is the right thing to do under the circumstances - should an unqualified or inexperienced person be appointed or should the SPCB be a representative but expert body? The Water Act and the Air Act as well as the Constitution give ample guidance in this regard. We have already adverted to the provisions of the Constitution including Article 48A, Article 51A(g) and Article 21 of the Constitution. So, the entire scheme of the various provisions of the Constitution adverted to above, including the principles that have been accepted and adopted internationally as well as by this Court such as the principles of sustainable development, public trust and intergenerational equity are a clear indication that in matters relating to the protection and preservation of the environment (through the appointment of officials to the SPCBs) the Central Government as well as the State Governments have to walk the extra mile. Unfortunately, many of the State Governments have not even taken the



WEB COPY

first step in that direction - hence the present problem.

25. While it is beyond the jurisdiction of the NGT and also beyond our jurisdiction to lay down specific rules and guidelines for recruitment of the Chairperson and members of the SPCBs, we are of opinion that there should be considerable deliberation before an appointment is made and only the best should be appointed to the SPCB. It is necessary in this regard for the Executive to consider and frame appropriate rules for the appointment of such persons who would add lustre and value to the SPCB. In this connection we refer to the State of Punjab v. Salil Sabhlok in which it was observed with reference to appointments to the Public Service Commission that besides express restrictions in a statute or the Constitution, there can be implied restrictions in a statute or the Constitution and the statutory or constitutional authority cannot, in breach of such implied restrictions, exercise its discretionary power. In our opinion this would be equally applicable to an appointment to a statutory body such as the SPCB - the State Government does not have unlimited discretion or power to appoint anybody that it chooses to do.

31. Finally, the Menon Committee made recommendations that are a part of the communication of 16th August, 2005 referred to above. It was also recommended that (a) in general, State Governments should not interfere with recruitment policies of the SPCBs, especially where the Boards are making efforts to equip their institutions with more and better trained engineering and scientific staff, (b) the statutory independence and functional autonomy given to the SPCBs should be protected and the Boards should be kept free from political interference. The Boards should be enabled to make independent decisions in this regard and (c) the Chairperson of the SPCB should be a full-time appointee for a period of five years and the Member-Secretary of the SPCB should also be appointed for a period of five years.

32. All these suggestions and recommendations are more than enough for making expert and professional appointments to the SPCBs being geared towards establishing a professional body with multifarious tasks intended to preserve and protect the environment and consisting of experts. Any contrary view or compromise in the appointments would render the exercise undertaken by all these committees completely irrelevant and redundant. Surely, it cannot be said that the committees were not constituted for the purpose of putting their recommendations in the dustbin.



WEB COPY

that if the government is unable to find a competent person, then it should advertise the post, as has been done recently by states like Odisha. However, State Governments have been defending their decision to appoint bureaucrats to the post of Chairperson as they believe that the vast experience of IAS officers in handling responsibilities would be easy. Another major challenge has been appointing people without having any knowledge in this field. For example, the appointment of G with maximum qualification of Class X as Chairperson of State Pollution Control Board of Sikkim was clear violation of Water (Prevention and Control of Pollution) Act, 1974."

34. The concern really is not one of a lack of professional expertise - there is plenty of it available in the country - but the lack of dedication and willingness to take advantage of the resources available and instead benefit someone close to the powers that be. With this couldn't-care-less attitude, the environment and public trust are the immediate casualties. It is unlikely that with such an attitude, any substantive effort can be made to tackle the issues of environment degradation and issues of pollution. Since the NGT was faced with this situation, we can appreciate its frustration at the scant regard for the law by some State Governments, but it is still necessary in such situations to exercise restraint as cautioned in State of U.P. v. Jeet S. Bisht.

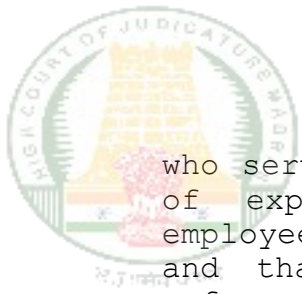
35. Keeping the above in mind, we are of the view that it would be appropriate, while setting aside the judgment and order of the NGT, to direct the Executive in all the States to frame appropriate guidelines or recruitment rules within six months, considering the institutional requirements of the SPCBs and the law laid down by statute, by this Court and as per the reports of various committees and authorities and ensure that suitable professionals and experts are appointed to the SPCBs. Any damage to the environment could be permanent and irreversible or at least long-lasting. Unless corrective measures are taken at the earliest, the State Governments should not be surprised if petitions are filed against the State for the issuance of a writ of quo warranto in respect of the appointment of the Chairperson and members of the SPCBs. We make it clear that it is left open to public spirited individuals to move the appropriate High Court for the issuance of a writ of quo warranto if any person who does not meet the statutory or constitutional requirements is appointed as a Chairperson or a member



of any SPCB or is presently continuing as such.”

10. By also referring to paragraph 28 of the judgment, he pointed out that the Bhattacharya Committee recommended that there should be discouragement of the flow of persons on deputation to the boards and that such position should not be filled up with the primary intention to reward an ex-official, through his or her appointment upon retirement, to a position for which he or she may not possess the essential overall qualifications.

11. Mr.Yogeshwaran's third contention was that the TNPCB C&MS Appointment Rules are designed in such a manner that only a person who is already an employee of the TNPCB would be eligible to become the Member Secretary. As a result, the position of the Member Secretary gets converted into a promotion post whereas it is intended to be a selection post. In particular, he pointed out that the requirement of 25 years experience in the enforcement of environmental legislation would eliminate everyone other than persons currently employed in the TNPCB. Consequently, the impugned rules are exclusionary and, therefore, arbitrary. In this connection, he countered the contention of the State of Tamil Nadu in its counter affidavit. The State of Tamil Nadu had stated therein that the criteria prescribed in the rules would be satisfied by eligible candidates from the TNPCB, the Central Pollution Control Board, the Ministry of Environment and Forests and Climate Change (the MoEF), the Department of Environment (the DoE), the State Environmental Impact Assessment Authority (SEIAA), the Central Leather Research Institute (the CLRI), the National Environmental Engineering Research Institute (the NEERI), Forest Officers, Corporations, Municipalities, Panchayats, etc. By drawing reference to the rejoinder of the Petitioners and in particular, paragraphs 18 to 22 thereof, he contended that except the officials of the TNPCB and the Central Pollution Control Board, none of the other categories that were specified in the counter affidavit of the State would fulfill the criteria specified in the TNPCB C&MS Appointment Rules. In order to illustrate this contention, he pointed out that the officials of the MoEF do not enforce environmental legislation, albeit to the limited extent of granting environmental clearance. Even if the grant of environmental clearance is treated as the enforcement of environmental legislation, such officers would not have performed such role for 25 years given the limited duration of such appointments. Similarly, as regards the Secretary of the DoE, he/she performs functions delegated under Sections 5 and 19 of the Environment Protection Act, 1986 (the Environment Protection Act) and also holds the position of the Member Secretary in the SEIAA as well as the State Coastal Zone Management Authority. These posts are occupied by civil servants



who serve for a limited term and would not satisfy the 25 years of experience criterion. As regards the CLRI and NEERI employees, he pointed out that these are research institutions and that they do not perform any function related to the enforcement of environmental legislation. With regard to forest officers, he submitted that they do not deal with environmental pollution and the prevention and control thereof. With regard to local bodies, such as Corporations and Municipalities and Panchayats, he submitted that they are project proponents and are, therefore, required to approach the TNPCB for environmental clearance. For all these reasons, he submitted that the contentions of the State are untenable and that the TNPCB C&MS Appointment Rules would curtail the eligible applicants to those who are presently employed in the TNPCB, and that they are consequently arbitrary.

12. The learned counsel for the Petitioner in W.P. No.10332 of 2020, which is a public interest litigation, Mr.G.Arul Murugan, adopted the submissions of Mr. Yogeshwaran as regards Rule 2(4)(b)(3)(ii) and also contended that the amendment to Rule 2(4)(b)(3A) whereby the age limit of 55 years was introduced is liable to be struck down. He submits that it would considerably curtail the zone of consideration because there would be very few candidates - with the requisite educational qualifications and 25 years experience both in environmental protection and the enforcement of environmental legislation - who are below the age of 55. Therefore, he contends that this stipulation is contrary to the Hon'ble Supreme Court judgment and the applicable environmental laws.

13. In response to these contentions, the learned Advocate General pointed out that the TNPCB C&MS Appointment Rules were framed in accordance with the mandate of the Hon'ble Supreme Court in Techhi Tagi Tara. The learned Advocate General referred to paragraphs 24 and 25 of the said judgment wherein the Hon'ble Supreme Court held that each state government should frame appropriate rules for appointment of experts to the post of chairman and member secretary of the respective pollution control boards. With this in mind, the TNPCB C&MS Appointment Rules were framed and the specification of the requirement that the candidate should possess a post graduate degree in engineering or technology in environmental engineering or allied sciences coupled with the requirement that the candidate should possess 25 years field experience in environmental protection and enforcement of environmental legislation are entirely rational and relevant for the purpose of selecting candidates with the necessary expertise and professional competence. He also contended that the functions of Member Secretary are both regulatory and enforcement related. Therefore, it is not sufficient to appoint persons with theoretical knowledge. It is

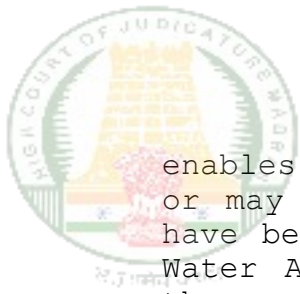


for this reason that the criterion of 25 years field experience in environmental protection and enforcement of environmental legislation criteria has been stipulated. He also pointed out that the Petitioner in W.P. No.6940 and 6943 of 2020 is a disgruntled former employee of the TNPCB with a tainted record and, therefore, the petitions, at his instance, are not maintainable. W.P. No.10332 of 2020 is a public interest litigation and the settled legal position is that such petitions are not maintainable in service matters. He concluded his submissions by pointing out that the TNPCB C&MS Appointment Rules are entirely in conformity with the Water Act and other relevant environmental legislation. Therefore, no interference is warranted.

14. We considered the submissions of the learned counsel and the learned Advocate General for the respective parties and examined the materials on record.

15. The first contention that is required to be dealt with is whether the TNPCB C&MS Appointment Rules are ultra vires the Water Act and Air Act. On perusal of the Water Act and, in particular, Section 4(2)(f) thereof, we find that Section 4 sets out the composition of a state pollution control board. Sub-section (2)(f) deals with a member secretary and generically specifies that a full time member secretary should possess qualifications, knowledge and experience in respect of the scientific, engineering or managerial aspects of pollution control. Thus, it is not a provision that prescribes the requisite educational and experience qualification on the basis of which a member secretary may be recruited. Consequently, per force, one needs to examine if the Water Act contains any other provisions in this regard. Section 6 specifies disqualifications of a member of the Central or State Board and Section 12(1) empowers the prescription of the terms and conditions of service of a member secretary. However, there does not appear to be any other provision in the Water Act that specifies the requisite educational or experience requirements for a member secretary. Hence, one must turn to the rule-making power. The power of the State Government to frame rules is contained in Section 64 of the Water Act. Section 64 enables the State Government to make rules to carry out the purposes of the Water Act in respect of matters not falling within the purview of Section 63.

16. The prescription of qualifications for the recruitment of a chairman or member secretary of the state board is undoubtedly not within the purview of Section 63. Section 64(2)(e) empowers the framing of rules regarding the terms and conditions of the chairman and member secretary and Section 64(2)(g) empowers the framing of rules regarding the powers and duties to be exercised by the above-mentioned members of the state board. Section 64(2)(p) is the residuary clause that



enables the framing of rules on any other matter which has to be or may be prescribed. The present TNPCB C&MS Appointment Rules have been framed under powers conferred under Section 64 of the Water Act. Upon carefully considering the Water Act, including the residuary clause, we conclude that the Tamil Nadu Government is empowered to frame rules for fulfilling the purposes of the Water Act, including by prescribing the qualifications for recruitment of a member secretary. A reference to the Air Act, on this issue, is also pertinent. Section 4 of the Air Act states that the state board constituted under Section 4 of the Water Act shall be deemed to be the state board for the purposes of the Air Act. Section 5 thereof deals with a situation where the Water Act is not in force in a state or a state board has not been constituted under the Water Act. In such event, it specifies the composition of the state board. Section 5(2)(f) of the Air Act is largely in pari materia with Section 4(2)(f) of the Water Act, albeit it expressly provides for the prescription of qualifications and experience. It reads as under:

" a full-time member-secretary having such qualifications, knowledge and experience of scientific, engineering or management aspects of pollution control as may be prescribed, to be appointed by the State Government." (emphasis added).

17. As indicated above, Section 4(2)(f) of the Water Act does not set out specific qualifications or experience and, therefore, it is necessary to frame rules for such purpose. The impugned rules are intended to fill that gap. On closely examining Rule 2(4)(b)(3)(ii) and Rule 2(4)(b)(3A), we find that the educational and experience criteria specified therein are clearly germane and bear a strong nexus to the scientific, engineering and management aspects of pollution control. Thus, we do not find anything in the said Rules that contradict or contravene or exceed the scope of the generic prescription in Section 4(2)(f) that the member secretary should possess "qualifications, knowledge and experience of scientific, engineering or management aspects of pollution control." Hence, we conclude that Rule 2(4)(b)(3)(ii) and Rule 2(4)(b)(3A) are intra vires Section 4(2)(f) of the Water Act and Sections 4 and 5 of the Air Act.

18. The next contention of the learned counsel for the Petitioners was that Rule 2(4)(b)(3)(ii) and 2(4)(b)(3A) violate the judgment of the Supreme Court in Techī Tagī Tara. The impugned rules mandate that only persons with relevant educational qualifications and 25 years work experience in environmental protection and enforcement of environmental legislation are eligible. In Techī Tagī Tara, the Supreme Court held that experts with professional competence and not ex-



bureaucrats should be appointed. Given the qualifications stipulated in the impugned rules, it would not be possible to appoint retired bureaucrats or political leaders, without the necessary domain expertise, to the said post. Therefore, we conclude that the TNPCB C&MS Appointment Rules are fully in conformity with the observations of the Hon'ble Supreme Court in *Techi Tagi Tara*.

19. The last contention was that the TNPCB C&MS Appointment Rules are designed to convert a selection post into a promotion post. In support of this contention, Mr. Yogeshwaran relied upon the rejoinder wherein the Petitioner has explained as to why persons from the DoE would not be eligible to apply the post. He further pointed out that the persons from the various departments, organizations like CLRI, NEERI, Corporations, Municipalities and Panchayats would not be eligible. This contention is not devoid of merit. However, the fact that the zone of consideration is narrowed down on account of the stipulation of qualification criteria cannot be a ground to strike down the rule in the absence of arbitrariness. This principle would also apply as regards the fixation of the maximum age of 55 years. In *Union of India v. Indian Radiological & Imaging Association*, (2018) 5 SCC 773, while dealing with the prescription of training requirements in the context of pre-natal diagnosis, the Supreme Court held as under in paragraph 16:

"16. Parliament which has the unquestioned authority and legislative competence to frame the law considered it necessary to empower the Central Government to frame rules to govern the qualifications of persons employed in genetic counselling centres, laboratories and clinics. The wisdom of the legislature in adopting the policy cannot be substituted by the court in the exercise of the power of judicial review. Prima facie the judgment of the Delhi High Court has trenched upon an area of legislative policy. Judicial review cannot extend to reappreciating the efficacy of a legislative policy adopted in a law which has been enacted by the competent legislature. Both the Indian Medical Council Act, 1956 and the PCPNDT Act [PCPNDT Act] are enacted by Parliament. Parliament has the legislative competence to do so. The Training Rules, 2014 were made by the Central Government in exercise of the power conferred by Parliament. Prima facie, the Rules are neither ultra vires the parent legislation nor do they suffer from manifest arbitrariness."

We previously concluded that the impugned rules are not ultra vires the Water Act. In drawing our final conclusion, the



following factors are significant: this Court is not sitting in appeal over the prescription of qualification criteria; the educational, experience and age criteria cannot be said to be irrelevant or arbitrary; the Court cannot prescribe the criteria by substituting its views; and the impugned rules do not violate the judgment in Techhi Tagi Tara. Therefore, we conclude that the Petitioners have failed to make out a case to strike down the rules. Because W.P.No10332 of 2020 is the only petition filed in public interest and given the above conclusion, we do not propose to examine the maintainability issue.

20. In the result, these writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

Kal

To

1.The Chief Secretary,
State of Tamil Nadu
Fort St. George, Chennai.

2.The Principal Secretary to Government,
State of Tamil Nadu,
Environment and Forests Department,
Fort St. George, Chennai.

3.Tamil Nadu Pollution Control Board,
Represented by Chairman,
76, Anna Salai, Guindy Industrial Estate,
Race View Colony, Guindy, Chennai-600 032.

+3cc to Mr.N.Manokaran, Advocate, S.R.No. 31220

+1cc to the Special Government Pleader, S.R.No. 31173

W.P Nos.6940, 6943 & 10332/2020
and

WMP Nos.8283, 8284, 8286 and 12557 of 2020

SVI (CO)
GN(29/10/2020)