



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.04.2021

CORAM

THE HON'BLE MR.JUSTICE P.D.AUDIKESAVALU

W.P. (MD)No.2384 of 2013

and

M.P(MD)Nos.1 and 2 of 2013 and W.M.P.(MD)No.8509 of 2016

Tamil Nadu Sanitary Supervisors Association,
Represented by its President K.Karuppaiah,
K.P.Nivas,
No.52, Malligaipuram,
Srinivasapuram,
Thanjavur - 613 009.

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. By its Secretary to Government,
Municipal Administration and Water Supply Department,
Secretariat, Fort St. George,
Chennai - 600 009.

2.The State of Tamil Nadu,
Represented by its Secretary to Government,
Public Health and Family Welfare Department,
Fort St. George,
Chennai - 600 009.

3.The Commissioner of Municipal Administration,
Chepauk,
Chennai - 600 005.

4.The Director of Public Health and Preventive Medicine,
Teynampet,
Chennai - 600 018.

... Respondents

Prayer:- Writ petition filed under Article 226 of Constitution of India, seeking for a Writ of Declaration to declare Regulation 6(2) for amendment to Tamil Nadu Public Health Service Regulations, 1970 notified in G.O.Ms.No.104, Municipal Administration and Water Supply (ME.III) Department, dated 20.11.2012 and null and void insofar as the Sanitary Supervisors/Field Assistants already in service and eligible for promotion as per Regulation 2 of Tamil Nadu Public Health Service Regulations, 1970 and consequently direct the respondents to fill up the vacancies to the post of Sanitary Inspector as per Regulation 2 of Tamil Nadu Public Health Service Regulations, 1970 with eligible persons working in the post of Sanitary Supervisors/Field Assistants, by recruitment by transfer by allowing them to complete the condensed training programme for



Sanitary Inspector post to be conducted by the fourth respondent within a time to be fixed by this Court.

For Petitioner : Mr.F.Deepak

For Respondents : Mr.R.Murugan
Additional Government Pleader

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ORDER

Heard Mr.F.Deepak, learned counsel for the Petitioner and Mr.R.Murugan, Learned Additional Government Pleader for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2.The Petitioner, which is an Association of Sanitary Supervisors working in the local bodies in the State of Tamil Nadu, has filed this Writ Petition for declaring Regulation 6(2) of the Tamil Nadu Public Health Service Regulations, 1970 notified in G.O.Ms.No.104, Municipal Administration and Water Supply (ME.III) Department, dated 20.11.2012 as null and void insofar as the Sanitary Supervisors/Field Assistants already in service and eligible for promotion as per Regulation 2 of the Tamil Nadu Public Health Service Regulations, 1970 and consequently direct the Respondents to fill up the vacancies to the post of Sanitary Inspector as per Regulation 2 of the Tamil Nadu Public Health Service Regulations, 1970 with eligible persons working in the post of Sanitary Supervisors/Field Assistants, by recruitment by transfer by allowing them to complete the condensed training programme for Sanitary Inspector post to be conducted by the Fourth Respondent. It has been brought to notice that prior to the impugned amendment to the statutory rules, the Petitioner had filed another Writ Petition in W.P.(MD)No.7994 of 2012 seeking the relief to issue a direction to the Respondents to fill up the vacancies to the post of Sanitary Inspector as per Regulation (2) of the Tamil Nadu Municipal Public Health Service Regulations, 1970 with eligible persons working in the post of Sanitary Supervisors/Field Assistants, by recruitment by transfer by allowing them to complete the Condensed Training Programme for Sanitary Inspector post to be conducted by the Fourth Respondent. The said Writ Petition has been dismissed by the Learned Judge of this Court by Order dated 12.02.2015 taking note of the impugned amendments made to the statutory rules after the filing of that Writ Petition. In the appeal preferred by the Petitioner against the same, the Division Bench of this Court by order dated 23.03.2016 in W.A.(MD) No. 172 of 2016 has elaborately considered the effect of the impugned amendments and has held as follows:-

"32. The contention of the learned counsel for the appellant's association that amended rules cannot be applied retrospectively and vested rights of the members



of the petitioner's association to seek for promotion to the post of Sanitary Inspector, cannot be taken away and the then existing rules, at the time of vacancy, should be applied, would be a valid ground, if only the members of the petitioner's association did possess the eligible criteria, viz., Sanitary Inspector's Certificate obtained from the prescribed institutions.

33. Even according to the petitioner, Gandhi Gram Rural Institute has already upgraded its standard from Certificate Course to PG Diploma Course and the basic qualification prescribed for the post of Sanitary Inspectors, is B.Sc., (Chemistry). That statement is also duly supported by the advertisement of the deemed University 2012-13, for P.G. Dipoloma course. Sending a candidate for six months training, for Sanitary Inspector's course, is not mandated, under the then existing rules. However, to enable the Sanitary Supervisor/Field Assistant, to get promotion to the post of Sanitary Inspector, willing candidates have been sent for training, with a condition that they should pay the registration and course fee and make their own arrangements for visit and stay. Concession extended to those, who were willing to participate in the training, at their own cost and to avail eligible leave, cannot be put against the Government that they have failed in their duty in not sending the enumerated list of candidates.

34. At this juncture, it should also be noticed that though candidates have been permitted to undergo training in G.O.Ms.No.53, Health and Family Welfare Department, dated 12.02.2007 and G.O.Ms.No.206, Health and Family Welfare Department, dated 30.06.2008, no materials have been placed before this Court, as to whether, subsequently, such concession was extended. Moreover, the Commission has felt that the qualification for the post of Sanitary Inspector is on the lower level, with SSLC and a Certificate Course. During March' 2010, the One Man Commission has recommended that the educational qualification for the post of Sanitary Inspector has to be revised as B.Sc., (Chemistry).

35. Concession in not sending the enumerated list of candidates to avail the Sanitary Inspector's Training Course, at their own cost, cannot be said to be arbitrary, when the Government was under the process of amending the Rules, prescribing B.Sc., (Chemistry) as the educational qualification, for the post of Sanitary Inspector. Concession extended earlier, also cannot be said to have conferred a right on the members of the



association that notwithstanding the One Man Commission report and examination of the government to amend the rules relating to the educational qualification SSLC, the Government was mandated to send them for training. Admittedly, members of the petitioner's association did not possess the Sanitary Inspector's Certificate and therefore, they cannot be said to have acquired any vested right for promotion, against the vacant posts.

36. Acquisition of qualification prescribed for a post, has to be done by an individual, seeking promotion to the higher post. Members of the petitioner's association cannot claim that there is a mandate on the part of the Department to sponsor their names for training. They have not acquired any vested right, on the basis of the then existing rules, prior to the amendment and hence, the decisions relied on, are not in strict sense, applicable to the facts of this case.

37. At this juncture, it is also to be noted that though in M.P.No.1 of 2012 in W.P.No.7994 of 2012, the petitioner's association has sought for an interim direction, directing the respondents to send the members of the association, for condensed training programme for Sanitary Inspector course, for not taking notice for respondents 2 to 4, the said petition has been dismissed for default. They have not even revived the petition.

38. Though the Writ Court has taken note of the amendment made in the abovesaid Rules, pending disposal of the writ petition, for the reasons, stated supra, this Court is of the view that the members of the petitioner's association are not entitled to the relief sought for. Hence, Writ Appeal is dismissed."

3. Having regard to the aforesaid adjudication made by this Court, there does not appear to be any scope to grant the relief claimed to the Members of the Association of the Petitioner in this Writ Petition.

4. In the result, the Writ Petition is dismissed. Consequently, the connected miscellaneous petitions are closed. No costs.

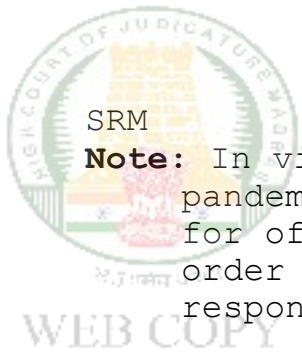
Sd/-

Assistant Registrar (CS-III)

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/ /2021

Sub Assistant Registrar(CS)



SRM

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

- 1.The Secretary to Government,
State of Tamil Nadu,
Municipal Administration and Water Supply Department,
Secretariat, Fort St. George,
Chennai - 600 009.
- 2.The Secretary to Government,
State of Tamil Nadu,
Public Health and Family Welfare Department,
Fort St. George,
Chennai - 600 009.
- 3.The Commissioner of Municipal Administration,
Chepauk,
Chennai - 600 005.
- 4.The Director of Public Health and Preventive Medicine,
Teynampet,
Chennai - 600 018.

+1 CC to M/s.SPL GP (SR-16318[F] dated 17/04/2021)

W.P. (MD)No.2384 of 2013

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