



WP.Nos.5813, 5814 & 7942 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.08.2023

CORAM

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

WP.Nos.5813, 5814 & 7942 of 2022
and W.M.P.Nos.5888, 5890, 7933 & 7934 of 2022

K.Lakshmi	.. Petitioner in W.P.No.5813 of 2022
N.Lakshmi	.. Petitioner in W.P.No.5814 of 2022
V.Gnanasekaran	.. Petitioner in W.P.No.7942 of 2022

Versus

Commissioner of Labour Teynampet, Chennai – 600 006	.. Respondents in all cases
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Prayer in W.P.No.5813 of 2022: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to proceedings E2/12600/2019-17 dated 14.03.2022 issued by respondent and to quash the same and direct the respondent to include the petitioner name (Seniority No.1585(c)) in the approved list of Assistant Inspector of Labour for Promotion as Deputy Inspector of Labour for the year 2020-2021 and 2021-2022.

Prayer in W.P.No.5814 of 2022: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to proceedings E2/12600/2019-2 dated 14.03.2022 issued by respondent and to quash the same and direct the



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respondent to include the petitioners name (Seniority No.1637B) in the approved list of Assistant Inspector of Labour for Promotion as Deputy Inspector of Labour for the year 2020-2021 and 2021-2022.

Prayer in W.P.No.7942 of 2022: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to proceedings E2/12600/2019-3 dated 14.03.2022 issued by respondent and to quash the same and direct the respondent to include the petitioners name (Seniority No.1652) in the approved list of Assistant Inspector of Labour for Promotion as Deputy Inspector of Labour for the year 2020-2021 and 2021-2022.

In all cases

For Petitioners : Mr.R.Subramanian

For Respondent : Mr.M.Alagu Goutham
Government Advocate

COMMON ORDER

These writ petitions are filed challenging the proceedings of the respondent dated 14.03.2022, quash the same and direct the respondent to include the petitioners name in the approved list of Assistant Inspector of Labour for promotion as Deputy Inspector of Labour for the year 2020-2021 and 2021-2022.



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nature, they are disposed of by way of this Common Order.

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3(a). The case of the writ petitioner in W.P.No. 5813 of 2022 is that he was appointed by the Tamil Nadu Public Service Commissioner as Steno Typist on 30.06.2018 and was designated as Assistant on 30.06.2008 and on 03.11.2014, he was upgraded as Superintendent and on 07.09.2018, he became the Assistant Inspector of Labour.

3(b). The case of the writ petitioner in W.P.No. 5814 of 2022 is that he was appointed by the Tamil Nadu Public Service Commissioner as Typist on 18.12.1986 and got converted as Steno Typist on 04.12.1989 and was designated as Assistant on 09.03.2007 and on 06.08.2013, he was upgraded as Superintendent and on 03.07.2017, he became the Assistant Inspector of Labour.

3(c).The case of the writ petitioner in W.P.No.7942 of 2022 is that he was appointed by the Tamil Nadu Public Service Commissioner as Steno Typist on 01.02.1991 and was designated as Assistant on 01.01.2009 and on 29.04.2014, he was upgraded as Superintendent and on 09.07.2018, he became the Assistant Inspector of Labour.



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WEB COPY4. It is the grievance of the writ petitioners that vide Proceedings in E4/42850/17 dated 26.02.2008, the draft seniority list was prepared in the post of Assistant Inspector of Labour, wherein, the writ petitioner in W.P.No.5813 of 2022 was placed in S.No.1637B. The writ petitioner in W.P.No.5814 of 2022 was placed in S.No.1585C and the writ petitioner in W.P.No.7942 of 2022 is placed in 1652. On 17.02.2022, the respondent vide proceedings E2/12600/2019 dated 17.02.2022 prepared a list for promotion of Deputy Inspectors of Labour of the year 2020-2021 and 2021-2022 and the said list was forwarded to the authorities calling upon them to clarify whether any disciplinary proceedings/vigilance enquiry are pending or any punishments suffered. In the list dated 17.02.2022, the writ petitioner in W.P.No.5813 of 2022 is placed in S.No.32. The writ petitioner in W.P.No.5814 of 2022 is placed in S.No.09 and the writ petitioner in W.P.No.7942 of 2022 is placed in 41. Thereafter, the draft seniority list was approved and in the approved panel, the petitioners name were omitted and their juniors name were included.

5. Therefore, initially, they filed writ petitions directing the respondents to include their name for the post of Deputy Inspector of Labour. Subsequent to the filing of the writ petitions, the respondent issued a proceedings dated



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14.03.2022 stating that since the petitioners had not undergone basic training in Ranchi Institute which is mandatory under Rule 5 of Indian Institute of Legal Metrology Rules, 2011, hence, the petitioners name were not included. Further, it is also stated that requisition has been made to the Government under Rule 28 of Legal Metrology (General) Rules, 2011 seeking exemption. Challenging the Order dated 14.03.2022, these writ petitions.

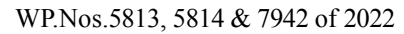
6. It is the case of the respondents that the petitioners have not completed the basic training at Indian Institute of Legal Metrology, Ranchi, therefore, the names of the petitioners were not included for the year 2020-2021 and 2021-2022. Hence, it is the contention that the officials in the cadre of Assistant Inspector of Labour who do not possess the educational qualification in Physics as per Rule 28(1) of the Legal Metrology (General) Rules, 2011 and as per Rule 5 of the IILM Rules, 2011, are not allowed for the four months basic training at IILM, Ranchi. Further, the petitioners have not acquired the educational qualification as per Rule 5 of IILM Rules, they could not be deputed to the basic training in the Indian Institute of Legal Metrology, Ranchi. As per the Rule 3 framed vide G.O.Ms.No.483 (Labour), Department of Industries, Labour and Housing dated 17.02.1969, Appointment to the post shall be made by promotion from among the holders of the post of Assistant



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Inspector of Labour who have put in service not less than three years and have completed their probation in that category. The main work in the post of Deputy Inspector of Labour is stamping and it is necessary to complete the Basic Training at Indian Institute of Legal Metrology for performing the work. Hence, the petitioners have not acquired the educational qualification as per Rule 5 of IILM Rules. Hence, opposed the writ petitions.

7. The learned counsel for the petitioners mainly would submit that the petitioners were working as Assistant Inspector of Labour, their next avenue of promotion is Deputy Inspector of Labour. Originally, in the draft seniority list for the year 2020-2021 and 2021-2022, their names were included and however, subsequently in the approval list, their names were omitted mainly on the ground that as per Rule 5 of the IILM Rules, they did not have requisite qualification. It is their contention that Rule 5 of the IILM Rules, 2011 cannot be applied to the petitioners, since, as per proviso of Indian Institute of Legal Metrology Rule 5(a)(ii), the educational qualification is not required in respect of the petitioners, who are already employed as the Assistant Inspector of Labour. Further, the Rule is applicable only in prospective and cannot be given a retrospective effect. The petitioner is also working as a Legal Metrology Officer on the date of commencement of the Rules. Therefore, Rule 5 is not



8. In light of the submissions made by the learned counsel for both sides, now the issue arises in the writ petitions is whether the respondents are justified in excluding the petitioners from the panel for promotion as Deputy Inspector of Labour based on the Rule 5 of the IILM Rules, 2011.

...3. *Appointment: Appointment to the post shall be made by promotion from among the holders of the posts of Assistant Inspectors of Labour who have put in a service of not less than three years and have completed their probation in that category and from among those who held the posts of Inspectors of Weights and Measures and by transfer from among those who held the posts of Assistant Controllers of Weights and Measures, on the date of merger of the Weights and Measures Department with the Labour Department.*

10. Now, though the names of the petitioners were found in the draft list



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for promotion of Deputy Inspectors of Labour dated 17.02.2022, subsequently, their names have been omitted and they have been non suited mainly on the ground that since, the petitioners have not undergone the basic training in the Ranchi which is mandatory as per Rule 5 of IILM Rules, 2011. It is relevant to extract Rule 5 of the of the IILM Rules, 2011 hereunder:

" 5. Qualification of persons to be eligible for admission in the Institute.- No person shall be admitted to the Institute unless he satisfies the requirements of any one of the following clauses,namely:-

(a) that he is employed by the Central Government or any State Government in any Department dealing with Legal Metrology and either holds-

(i) a degree in Science (with Physic as one of the subjects), technology or engineering, or

(ii) a diploma in engineering; and has been sponsored for training at the Institute by the Government by which he is so employed:

Provided that the educational qualification is not required in respect of persons who are already employed as legal metrology officers or eligible for promotion to legal metrology officer on the date of commencement of these rules:

Provided further that a person so employed holding a



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degree of a recognised university or equivalent may also be sponsored by the Government by which he is so employed, if such person having been employed by that Government before the commencement of these rules, has acquired experience in legal metrology for a period of not less than two years:

Provided that where any other person employed by the State Government is sponsored by that Government, the Central Government may relax the educational qualifications if the person so sponsored has field experience in legal metrology for a period of not less than two years and he is considered by the Central Government to be otherwise suitable for undergoing the course of training.

(b) that he is employed in a country outside India in any department dealing with legal metrology and holds degree or diploma which is equivalent to a degree or diploma specified in clause (a) and has been sponsored by the Government of that Country in which he is so employed:

Provided that in the case of a person employed in a country outside India, who is sponsored by the Government of that country, the Central Government may relax the educational qualification if the person so sponsored is considered by the Central Government to be other wise suitable for undergoing the course of training.

(c) that he is employed in an industrial unit and has passed the



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as follows:

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"28. Qualifications of Legal Metrology Officer

(1) No person shall be appointed as Legal Metrology Officer unless he-

(a) Is a graduate of a recognised university in Science (with physics as one of the subjects), technology or engineering or holds a recognised diploma in engineering with three years professional experience; and

(b) is able to speak, read and write the regional language of the State.

(2). Nothing in Sub-rule(1) shall apply to officials who have been working as Legal Metrology Officers and are also eligible for promotion to the next higher grade of legal Metrology Officer on the date of commencement of these rules.

(3) The person appointed to the post of Legal Metrology Officer shall have to successfully complete the basic training course at the Indian Institute of Legal Metrology, Ranch before his posting.

(4) The Central Government may, in consideration of the practical difficulties faced by the State Government and on its recommendation, relax the qualification specified in sub-rule (1) for the post of Legal Metrology Officers for that State.?"

The above Rule makes it clear the above Rule will not apply to the



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persons who are already been working as Legal Metrology Officer and also eligible for promotion to the next higher grade of Legal Metrology Officer on the date of commencement of these Rules.

12. It is relevant to note that in Rule 5 of IILM Rules also, there is a proviso which would make it clear that the persons who are employed as Legal Metrology Officer or eligible for promotion to the said post on the date of commencement of Rules, the required qualification as mandated in Rule 5 is not applicable. Similarly, the case in Rule 28 of the Legal Metrology (General) Rules, 2011, the persons who are already appointed to the post of Legal Metrology Officer, when the Rule came into force, mandatory requirement is not required. Though the Sub-Clause (3) of Rule 28 reads that persons appointed to the post of Legal Metrology Officer shall have to successfully complete the basic training course at the Indian Institute of Legal Metrology, Ranchi before his posting, the Government is also having power to relax the qualification.

13. It is relevant to note that the Government in G.O.Ms.No.120, Personnel and Administrative Reforms (Trg-1) dated 05.12.2016, wherein, in a similar case, foundation training to Bhavanisagar were exempted for the



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persons who aged about 53 years. The Government Order in G.O.Ms.No.1,

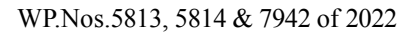
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Labour and Employment (M1) Department dated 04.01.2018 also makes it clear that the Government had notified that all the Deputy Inspector of Labour (Head Quarters) to be the Assistant Controller of Legal Metrology (Head Quarters) for the State of Tamil Nadu, the Regional Deputy Commissioners of Labours to be the Additional Controllers of Legal Metrology and all the Inspectors of Labour and Inspector of Plantations to be the Deputy Controllers of Legal Metrology for their respective jurisdictions and all the Deputy Inspectors of Labour to be the Assistant Controllers of Legal Metrology and all the Assistant Inspector of Labour and Stamping Inspectors to be the Inspectors of Legal Metrology for their respective jurisdiction. So, when the person already working as a Legal Metrology Officer in respect of the jurisdiction as per the above Notification, the mandatory requirement under Rule 5 and 28 will not apply to them.

14. Further, Section 56 of the Legal Metrology Act reads as follows:

56. Existing Director, Controller and legal metrology officer not to be affected by the new qualification to be prescribed.-

(1) Every Director, Controller and legal metrology officer appointed immediately before the commencement of the rules made under this Act, shall be deemed to have been



(2) The rules made a State Government under the standards of Weights and Measures (Enforcement) Act, 1985 (54 of 1985) which are in force immediately before the commencement of this Act shall remain in force until the State Government, makes rules in that behalf."

The above Section makes it clear that every Director, Controller and legal metrology officer appointed immediately before the commencement of the rules made under this Act, shall be deemed to have been appointed under sub-section (1) of sections 13 and 14, notwithstanding any rule prescribing different qualifications. Therefore, when the Act clearly shows that the persons who are already working as Legal Metrology Officer immediately before the commencement of the Rules, the mandatory training envisaged under Rule 5 cannot be applied to the petitioners.

15. Similarly Section 40(5)(3) of Tamil Nadu Labour Subordinate Services provides for qualifications for appointment as Assistant Inspector of Labour. It provides that the employee should have served not less than 1 year as Superintendent or Accountant in the Labour Department or not less than 2 years as Assistant in the Labour Department. It is not in dispute that the



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petitioners have served more than 4 years as Assistant Inspector of Labour which is the same cadre as that of Superintendent. Therefore, applying the above provision, they are eligible for promotion. At any event, Rules relied upon by the respondents could be applied only prospectively and the petitioners are also working as Legal Metrology Officer, their foundation training cannot be insisted.

16. Further, it is also brought to the notice of this Court that the petitioners are more than 55 years and stated the position, when the Government itself has power to relax any of the condition, the same could be done. In fact, Government in one of the Government Order in G.O.Ms.No.120, Personnel and Administrative Reforms (Trg-1) dated 05.12.2016 exempts the persons from undergoing foundation training at Bhavanisagar who have crossed 53 years, the same line of relaxation can be granted by the respondents.

17. Such view of the matter, when there is no disciplinary proceedings/vigilance enquiry are pending as against the petitioners, they are certainly entitled for promotion. Therefore, the impugned order is hereby set aside and the respondents are to directed to restore the seniority of the



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petitioners in the approved list of the Assistant Inspector of Labour for promotion as Deputy Inspector of Labour for the year 2020-2021 and 2021-2022. Such exercise shall be completed within a period of three months from the date of receipt of a copy of this Order.

18. Accordingly, these writ petitions stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

11.08.2023

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Index: Yes/No

Internet: Yes/No

Neutral Citation: Yes/No



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Commissioner of Labour
Teynampet, Chennai – 600 006

N.SATHISH KUMAR, J.



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