



Writ Petition No.4234 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

<i>Reserved on</i>	<i>28.08.2024</i>
<i>Pronounced on</i>	<i>15.10.2024</i>

CORAM

THE HONOURABLE MR. JUSTICE BATTU DEVANAND

Writ Petition No.4234 of 2018

1.A.Jayachandran
2.V.Srinivasa Ragupathy
3.P.K.Thangavelu
4.N.Elavarasan

..Petitioners

vs.

1.The Government of Tamilnadu,
rep. by its Secretary,
Health and Family Welfare Department,
Fort St.George,
Chennai-600 009

2.The Director of Public Health & Preventive Medicine,
D.M.S.Campus,
Anna Salai,
Chennai-600 006

... Respondents

PRAYER: Writ Petition has been filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order dated 08.09.2017 made in Na.Ka.No.69880/Pa.No.1/Iru.1/2017 passed by the second respondent to quash the same and consequently direct the respondents to appoint the petitioners for the post of Health Inspectors Grade-I from the date of initial appointment namely 19.01.2011 on par with the Sanitary Inspectors



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working in Town Panchayats, Municipalities and Corporations with all monetary benefits within a stipulated time limit as fixed by this Court.

For Petitioners : Mr.C.Prabakaran

For Respondents : Mr.K.Tippu Sultan, GA

ORDER

This Writ Petition has been seeking for issuance of a Certiorarified Mandamus, to call for the records relating to the impugned order dated 08.09.2017 made in Na.Ka.No.69880/Pa.No.1/Iru.1/2017 passed by the second respondent to quash the same and consequently direct the respondents to appoint the petitioners for the post of Health Inspectors Grade-I from the date of initial appointment namely 19.01.2011 on par with the Sanitary Inspectors working in Town Panchayats, Municipalities and Corporations with all monetary benefits within a stipulated time limit as fixed by this Court.

2.The brief facts, which led to the filing of the present Writ Petition, can be stated hereunder:



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The case of the petitioners is that they hold Diploma in Sanitary Inspectors, which is one of the essential qualifications for appointment to the post of Health Inspector Grade-I. However, the petitioners came to be appointed as Health Inspectors Grade II in the Health Department on 19.01.2011. Subsequently, their services were regularised on 18.01.2013. Thereafter, their probation was declared on 12.08.2016. The grievance of the petitioners is that though they are having requisite qualification i.e., possessing of Diploma in Sanitary Inspectors and fit to be appointed to the post of Health Inspector Grade I, which carries the basic scale of pay of Rs.9300, whereas, they are drawing basic scale of pay of Rs.5300/-.

3. According to the petitioners, the post of Sanitary Inspector in the Town Panchayats, Municipalities and Corporations throughout the State, carries the scale of pay of Rs.9300/-. The requisite qualification prescribed for appointment to the post of Sanitary Inspector is possessing of a Sanitary Inspector Certificate. The duties and responsibilities attached to the post of Sanitary Inspector *vis-a-vis* the Health Inspector Grade II are one and the same. Therefore, the petitioner claimed that they are also entitled to be treated on par with Sanitary Inspectors in the basic scale of pay of Rs.9300/-



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Therefore, the petitioners made a representation on 27.07.2017, to the respondents, requesting to pass orders for designating the petitioners as Health Inspector Grade I from the date of their initial appointment i.e., on 19.01.2011 on par with Sanitary Inspectors in Town Panchayats, Municipalities and Corporations. However, on consideration of the representation made by the petitioners, the second respondent passed impugned order dated 08.09.2007, rejecting the claim of the petitioners on the ground that the Rules do not provide for direct appointment of Health Inspector Grade I. Challenging the said impugned orders, the petitioners have constrained to file the present Writ Petition.

4.A counter affidavit has been filed on behalf of the second respondent wherein, it has been stated that as per Adhoc Rules prescribed in G.O. Ms.No.1507, Health & Family Welfare Department dated 16.08.1989 for the post of Health Inspector Grade II, the method of appointment is by direct recruitment or by direct recruitment by transfer from the Tamil Nadu Basic Service and the qualification prescribed is SSLC and a Certificate granted by the Director of Public Health and Preventive Medicine or any other recognized Institute approved by the Government of Tamilnadu for



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having undergone the long term Multi Purpose Health Workers Training Centre; or a Certificate for having undergone short term training course under Multi Purpose Health and Workers Scheme. The petitioners herein had completed the Sanitary Inspector Training Course, which is not a requisite qualification even for getting appointment in the post of Health Inspector Grade II. However, since the petitioners time and again approached the Government to consider them to the post of Health Inspector Grade II, the Government has considered their request and appointed them to the post of Health Inspector Grade II. The post of Health Inspector Grade- I is also covered by the Adhoc Rules and as per the said Rules, the method of appointment is by promotion from the post of Multi Purpose Health Assistant (re-designated) as Health Inspector Grade II. The qualification is possessing experience for a period not less than 5 years in the category of Multi Purpose Health Assistant. Therefore, according to the second respondent, as per the Rules, the post of Health Inspector Grade I is a promotional post from the cadre of Health Inspector Grade II, subject to acquiring 5 years experience in the post of Health Inspector Grade II. Therefore, at any cost, the petitioners cannot be considered directly for the post of Health Inspector Grade I from the date of their initial appointment as



Health Inspector Grade II.

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5.It is further stated that the post of Health Inspector Grade II and Health Inspector Grade I come under the Tamil Nadu Public Health Subordinate Service and these posts are governed by the Adhoc Rules, whereas the posts available in Local Bodies in the name of Sanitary Inspector are governed by another set of Statutory Rules. Hence, this cannot be compared with the Tamil Nadu Public Health Subordinate Service. Further, the petitioners herein had requested to give appointment to the post of Health Inspector Grade II only. After getting appointment, in the post of Health Inspector Grade II, they seek the post of Health Inspector Grade -I. But, they were not eligible even for the post of Health Inspector Grade II.

6.Therefore, according to the second respondent, there is no Rule provision to appoint the candidates to the post of Health Inspector Grade I directly since the feeder categories for the post of Health Inspector Grade I are Health Inspector Grade II and Lab Technician Grade III. Therefore, following the Adhoc Rules, the second respondent herein has rejected the



claim of the petitioners by the impugned orders dated 08.09.2017, which requires no interference. Hence, the second respondent sought for dismissal of the Writ Petition.

7. Heard the learned counsel for the petitioners and the learned Government Advocate appearing for the respondents and perused the entire material available on record.

8. The first respondent implemented Multi Purpose Health Workers Scheme in the year 1992. The first respondent framed adhoc rules under Article 309 of the Constitution of India in G.O.Ms.No.1507, Health Indian Medicine and Homeopathy and Family Welfare Department, dated 16.08.1989. The qualification for appointment to the post of Multi Purpose Health Assistant is a pass in SSLC and certificate granted by the Director of Public Health and Preventive Medicine or by any other recognised Institute approved by the Government of Tamil Nadu for having undergone the long term Multipurpose Health Worker Training Course. The post of Multipurpose Health Assistant was redesignated as Health Inspector, Grade II, which is the feeder category of Health Inspector, Grade I. As per



the Adhoc Rules the qualification for appointment to the post of Health Inspector Grade I is 5 years experience in the post of Health Inspector Grade II.

9. Admittedly, the petitioners herein had completed the Diploma in Sanitary Inspector course at All India Institute of Local Self Government, Bombay. It is also an admitted fact that the said course is not prescribed by the Government of Tamil Nadu neither for the post of Health Inspector Grade-II nor to the post of Health Inspector Grade-I in the Adhoc Rules. However, the Government had considered the request of the petitioners and by relaxing adhoc rule 5(b) (iii) in favour of them vide G.O.Ms.No.305, Health and Family Welfare Department, dated 22.09.2009, they were given appointment as Health Inspector Grade II by the second respondent herein and they joined duty on 19.01.2011. Subsequently, their services were regularised on 18.01.2013 and their probation was declared on 12.08.2016. As per the provisions, the petitioners herein as and when they acquired 5 years of experience in the post of Health Inspector Grade-II, they have been promoted as Health Inspector Grade-I, based on the vacancies which existed then, by the second respondent herein vide proceedings in



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R.No.8197/MP1/S3/216, dated 26.07.2016, from that day the petitioners are working as Health Inspector Grade I.

10. The grievance of the petitioners raised in the present Writ Petition is that the post of Sanitary Inspectors in the Town Panchayats, Municipalities and Corporations throughout the State carries the scale of pay of Rs.9,300/- . The requisite qualification prescribed for appointment to the post of Sanitary Inspector is possessing of Sanitary Inspector certificate. The duties and responsibilities attached to the post of Sanitary Inspector and Health Inspector Grade-II are one and the same.

11. It is also the grievance of the petitioners that though they are having requisite qualification, i.e., possessing of Diploma in Sanitary Inspectors and fit to be appointed the post of Health Inspector Grade-I, which carries the basic pay scale of Rs.9,300/-, whereas they are drawing the basic scale of pay of Rs.5,300/- in the post of Health Inspector Grade-II. Therefore, the petitioners claim that they are also entitled to treat on par with the Sanitary Inspectors in the scale of pay of Rs.9,300/-. Hence, they made a representation on 27.07.2017 to the respondents requesting for designating



them as Health Inspector Grade-I from the date of their initial appointment i.e, on 19.01.2011 on par with the Sanitary Inspectors in the Town Panchayats, Municipalities and Corporations. The said representation was rejected by the second respondent vide proceedings dated 08.09.2007. Aggrieved by the said order, the petitioners are constrained to file the present Writ Petition.

12. As per the Adhoc Rules prescribed in G.O.Ms.No.1507, Health Indian Medicine and Homeopathy and Family Welfare Department dated 16.08.1989, the post of Health Inspector Grade-II is a feeder category and the post of Health Inspector Grade-I is a promotional post. Those persons who are appointed in the post of Health Inspector Grade-II and after completion of 5 years of service, become eligible for consideration for promotion to the post of Health Inspector Grade-I as per the Rules. Though it is contended by the respondents that the petitioners are not even eligible for appointment as Health Inspector Grade-II in the absence of requisite qualifications, at this stage this Court did not intend to interfere into that aspect in view of the fact that already the respondents appointed the petitioners as Health Inspector Grade-II by relaxing the Adhoc Rules vide



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G.O.Ms.No.305, Health and Family Welfare Department, dated 22.09.2009.

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13. The only issue to be considered by this Court in this Writ Petition is that whether the petitioners are entitled to their claim to designate them as Health Inspector Grade-I from the date of their initial appointment i.e., on 19.01.2011 on par with the Sanitary Inspectors in Town Panchayats, Municipalities and Corporations is feasible or not.

14. As stated in the above paragraph, the post of Health Inspector Grade-II is the feeder category to be filled up by direct recruitment and the post of Health Inspector Grade-I is a promotional post as per the Adhoc Rules prescribed by the first respondent. The petitioners who were initially appointed as Health Inspector Grade-II are not entitled to claim designation as Health Inspector Grade-I from the date of their initial appointment in the cadre of Health Inspector Grade-II.

15. Besides that, the petitioners are also not entitled to claim to be considered on par with the Sanitary Inspectors working in the Town Panchayats, Municipalities and Corporations. It is to be noted that each and



every post in the Government service would be governed by either Special Rules or Adhoc Rules and these Rules are statutory. Only by following these Service Rules, the Service Conditions of the Government Servant would be determined for appointment, promotion and retirement etc.

16. The duties and responsibilities in respect of Health Inspector Grade-II are prescribed in G.O.Ms.No.294, Health and Family Welfare (N2) Department, dated 13.10.2010. Besides this, the post of Health Inspector Grade-II and Health Inspector Grade-I fall under the Tamil Nadu Public Health Subordinate Service Rules, and these posts are governed by the Adhoc Rules. But the post of Sanitary Inspectors in local bodies like Town Panchayats, Municipalities and Corporations are governed by another set of statutory Rules.

17. As such, this Court finds substantial force in the contention of the Government Pleader that the Adhoc Rules under which the petitioner was appointed cannot be conferred with relevant Rules applicable to the Sanitary Inspectors working in the local bodies. In addition to this, the petitioner sought appointment to the post of Health Inspector Grade-II and the State



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Government after relaxing relevant Rules appointed the petitioners as Health Inspector Grade-II. After getting appointment in the post of Health Inspector Grade-II, now they cannot seek designation as Health Inspector Grade-I from the date of their initial appointment as Health Inspector Grade-II.

18. However, by following the relevant Rules, the second respondent issued proceedings dated 26.07.2016 promoting the petitioners as Health Inspector Grade-I and they are working as Health Inspector Grade-I. In a similar case, the Madurai Bench of Madras High Court by order dated 25.02.2015 in W.P.(MD).No.11010 to 11016 of 2011, while considering the issue of promotion of Health Inspector Grade-II directed the first respondent therein to consider the promotion of the petitioners therein as Health Inspector Grade-I on completion of 5 years service as Health Inspector Grade-II from the date of completion of 5 years. Under this circumstances, this Court finds no ground to interfere into the order passed by the second respondent, which is impugned in this Writ Petition.

19. The learned counsel for the petitioner has placed reliance of the



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order dated 27.07.2023 in W.P.No.1026 of 2020. Having gone through the said order, this Court is of the opinion that the said order is not applicable to the present case in view of the fact that the facts in both the cases are different.

20. With the above said reasons, this Court is of the considered opinion that there is no illegality or infirmity in the order passed by the second respondent on 08.09.2017, which is impugned in this Writ Petition and this Court holds that the petitioners are not entitled for consequential relief they sought in this Writ Petition.

21. Accordingly, this Writ Petition is dismissed. No costs.

15.10.2024

Index : Yes/No
Speaking order: Yes/No
dn / pvs



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To

1. The Secretary,
The Government of Tamilnadu,
Health and Family Welfare Department,
Fort St.George,
Chennai-600 009
2. The Director of Public Health & Preventive Medicine,
D.M.S.Campus,
Anna Salai,
Chennai-600 006



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BATTU DEVANAND, J

pvs

Pre-Delivery order in
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