



W.P.No.11005 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.09.2024

CORAM

THE HON'BLE MR. JUSTICE **BATTU DEVANAND**

W.P.No.11005 of 2018
and WMP.No.12910 of 2018

K.N.Senthilkumar

... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by Secretary to Government,
Public Health and Family Welfare Department,
Fort St. George, Chennai 600 009.
2. The Director,
Public Health and Preventive Medicine,
359, Anna Salai,
Chennai 600 006.
3. The Secretary,
Tamil Nadu Public Service Commission,
Fraxer Bridge Road,
Chennai 600 003.
4. The Commissioner of Municipal Administration,
Ezhilagam, Chepauk,
Chennai.



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5. The Union Territory of Puducherry,
Rep. by Secretary to Government,
Department of Health and Family Welfare,
Chief Secretariat, Puducherry.

... Respondents

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to quash the order rejecting the claim of the petitioner to appoint him to the post of Sanitary Inspector and call for records as made in Na.Ka.No.11806/2014/J1, dated 17.07.2017 signed on 26.09.2017 on the file of the fourth respondent and consequently direct the fourth respondent to appoint the petitioner in the post of Sanitary Inspector by extending the benefit of G.O.Ms.No.305 Health and Family Welfare Department, dated 22.09.2009.

For Petitioner : Mr.P.K.Harinath Babu

For Respondents

for RR1 & 2 : Mr.K.Tippu Sulthan, G.A.

for R3 : M/s.Hema for TNPSC

for R4 : Mr.R.Neelakandan, Addl. Advocate General
assisted by Mr.S.Rajesh, G.A.



ORDER

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2. The petitioner belongs to Hindu Panniyandi Community, which is classified as Schedule Caste Community. The petitioner completed B.Sc. (Chemistry) in P.S.G. College of Arts and Science, Coimbatore in the year 2007 and also completed one year Diploma Course in Sanitary Inspector in R.M (Rasool Mohamed) College of Para Medical Sciences, Puducherry.

3. During the year 2010, the fourth respondent called for list of candidates from the Employment Exchange to fill up the vacancies in the post of Health Inspector and the petitioner's name was also sponsored. However, the petitioner was orally informed that the candidates who acquired qualification in the State of Puducherry is not eligible for selection. In this connection, the petitioner made a representation dated 03.09.2011 to



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the fourth respondent to consider his claim, but the same was not considered. Hence, he filed a writ petition in W.P.No.1741 of 2012 seeking for a direction to the respondents therein to treat the petitioner's qualification of Diploma in Health Inspector granted by the fifth respondent is equivalent to that of the qualification prescribed by the State of Tamil Nadu for considering his name to the appointment for the post of Sanitary Inspector by considering his representation. This Court vide order dated 28.02.2014 directed the respondents 1 to 4 therein to dispose of the representation of the petitioner dated 03.09.2011 within eight weeks. Pursuant to the said order, the fourth respondent after giving an opportunity of personal hearing rejected the claim of the petitioner by order dated 18.08.2014 on the basis that the Diploma in Health Inspector Course issued by R.M. College of Para Medical Science is not a prescribed qualification under the Regulations.

4. Challenging the order of the fourth respondent, the petitioner filed W.P.No.26984 of 2014 before this Court seeking a direction to appoint the petitioner as a Sanitary Inspector in the existing vacancies. This Court while setting aside the order dated 18.08.2014 directed the fourth respondent to consider the claim of the petitioner for appointment to the post of Sanitary



Inspector subject to fulfilment of other qualifications within eight weeks.

Pursuant to the said order, the fourth respondent by order dated 17.07.2017 once again rejected the claim of the petitioner on the very same basis that only those candidates who possess certificates from the Institutions mentioned under the Tamil Nadu Public Health Service Regulations shall be selected. The impugned order is nothing short verbatim of the earlier order dated 18.08.2024 passed by the fourth respondent. Hence, the petitioner has filed the present Writ Petition.

5. A counter affidavit has been filed by the fourth respondent, wherein it is stated that the claim of the petitioner to appoint him as Sanitary Inspector could not be considered on the reason that the one year Diploma Course obtained by the petitioner from R.M. College of Para Medical Sciences, Pondicherry is not an approved Institution as it was not included in the list of approved Institutions furnished by the Directorate of Public Health and Preventive Medicine in letter No.5701002/Trg-1/S1/2023, dated 23.09.2023.

6. For appointment to the post of Sanitary Inspector by direct



recruitment in earlier service, as per Tamil Nadu Municipal Public Health

Service Regulations 1970, the candidates must possess certain

qualifications, which reads as follows:

“Must possess a degree in B.Sc., (Chemistry) with a Sanitary Inspector's Certificate.

Must possess a Sanitary Inspector's Certificate granted by the Additional Director of Health Services and Family Planning Chennai as the Chairman Board of Examiners constituted by Government in this behalf, or must possess a Health Inspector's Certificate awarded by the Principal, Medical College, Trivandrum or must possess a Sanitary Inspector's Certificate awarded by the Director of Public Health Bombay; or Sanitary Inspector Certificate awarded by the Gandhigram Rural Institute; and

Must possess physical fitness for camp life and satisfy the physical standard prescribed for Health Inspectors.”

Hence, the applicants who possess qualification as per the above rules only be considered for appointment. Further, on perusal of the records regarding selection of candidates for the post of Sanitary Inspector during the year 2014, the name of the petitioner is not traceable. Hence, the contention of the petitioner that he was orally informed for not eligible for selection is not



acceptable.

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7. It is submitted that the notification issued vide No.17624/2017/J1, dated 30.12.2017 calling for applications to fill up the post of Sanitary Inspector with the above mentioned qualification is pending disposal before this Court in W.A.No.728 of 2023.

8. It is further submitted that new Tamil Nadu Urban Local Bodies Rules 2023 came into force with effect from 13.04.2023. As per the said provisions, the qualification for Sanitary Inspector reads as follows:

- i) Must possess B.Sc. degree in Zoology allied with Chemistry or Biochemistry or Chemistry allied with Zoology; or B.Sc. Degree in Public Health or Environmental Science or Microbiology or Biochemistry; and
- ii) Must have completed Sanitary Inspector course from an Institution approved by the Government of Tamil Nadu.

9. It is further submitted that the Government in G.O.(Ms).No.144



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Municipal Administration & Water Supply (ME.1) Department, dated 14.11.2023 has permitted the Director of Municipal Administration to conduct competitive examination followed by personal interview through Anna University, Chennai for selection of candidates to make appointment in entry level posts in Municipalities. Sanitary Inspector post is one among the other entry level posts in Corporations and Municipalities and notification calling for the vacancies of Sanitary Inspector has been issued vide Notification No.01/DMA/Recruitment 2024 date 02.02.2024. Hence the averments of the petitioner to appoint him for the post of Sanitary Inspector is not acceptable as the petitioner has not possessed the required qualification as prescribed in Tamil Nadu Urban Local Bodies Rules, 2023.

10. The learned counsel for the petitioner would submit that the claim of the petitioner to appoint him to the post of Sanitary Inspector was rejected by the fourth respondent vide his order dated 17.07.2017 contrary to the findings of this Court in order dated 03.03.2017 in WP.No.26984 of 2014. The fourth respondent passed the impugned order erroneously without extending the benefit of G.O.Ms.No.305, Health and Family Welfare Department, dated 22.09.2009. He further contends that the fifth respondent



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has recognised the R.M.(Rasool Mohamed) College of Paramedical Sciences and the certificate in Health Inspector's Course awarded by them is also being considered in the Department of Health and Family Welfare, Pondicherry. The fourth respondent without considering all these aspects in a mechanical way rejected the claim of the petitioner on the same line of the proceedings issued by him in ROC.No.11806/2014/J1, dated 18th August 2014, which was already set aside by this Court in WP.No.26984 of 2014.

11. The learned Additional Advocate General appearing for the fourth respondent would submit that the claim of the petitioner was considered in detail and it is informed to the petitioner that direct appointment has been made by the Selection committee on communal roster after obtaining list from the Employment Exchange. There is no provision to appoint the petitioner directly in the vacancy of Sanitary Inspectors in the Municipalities.

12. The learned Additional Advocate General further contends that the petitioner has already been informed that in respect of his claim that the educational qualification he obtained from Pondicherry is equal to that of



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those students, who have obtained degree certificate in the Colleges in Tamil Nadu is concerned, the same shall be considered by the Government, if a representation is made along with certificates. The petitioner without submitting any representation to the Government to consider his education qualification is equal to the certificates issued to the candidates, who studied in the Colleges in Tamil Nadu, he filed the present Writ Petition without any basis or right and accordingly, he sought to dismiss the Writ Petition.

13. Having considered the arguments of the respective counsels and on careful examination of the materials available on record, it appears that the petitioner joined the diploma in Health Inspector Course in R.M.(Rasool Mohamed) College of Paramedical Sciences, Puducherry, which is one year course, and completed the same during the year 2000 and he was awarded with diploma. The petitioner also possessed degree in B.Sc. (Chemistry). He also registered his qualifications with the concerned employment exchange. When the fourth respondent had called for list of candidates from the Employment Exchange, his name was also sponsored and his claim for the post of Sanitary Inspector was not considered. Thereafter, he submitted a representation dated 03.09.2011 to the fourth respondent and by order dated



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18.08.2014, the fourth respondent rejected the claim of the petitioner on the ground that as per relaxation issued in G.O.Ms.No.310, Municipal and Water Supply Department dated 22.07.2008 covers 57 Tamil candidates, who completed diploma from Pondicherry Community College affiliated to Pondicherry University and not from R.M.(Rasool Mohamed) College of Paramedical Sciences, Pondicherry, in which the petitioner had secured diploma. The petitioner challenged the order dated 18.08.2014 issued by the fourth respondent in WP.No.26984 of 2014. The learned Single Judge of this Court by order dated 03.03.2017, allowed the Writ Petition in part and set side the order dated 18.08.2014, issued by the fourth respondent holding that R.M.(Rasool Mohamed) College of Paramedical Sciences, Pondicherry has been recognised and approved by the Government of Pondicherry and the certificate in Health Inspector's course awarded by them are also being considered in the Department of Family Welfare Pondicherry in the light of the stand taken by the fifth respondent in its counter filed in the said Writ Petition. Accordingly, this Court directed the fourth respondent to consider the claim of the petitioner for appointment to the post of Sanitary Inspector, subject to the fulfilment of other qualifications/criteria and pass appropriate orders.



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14. As seen from the order dated 03.03.2017 in WP.No.26984 of 2014, it is clear that the certificate in Health Inspector's Course awarded to the petitioner is being considered in the Department of Health and Family Welfare, Pondicherry and as such the fourth respondent has to consider the said certificate of the petitioner for appointment to the post of Sanitary Inspector, if he fulfills other requirements.

15. As seen from the order impugned in this Writ Petition, issued by the fourth respondent on 17.07.2017, it appears that G.O.Ms.No.310, Municipal and Water Supply Department dated 22.07.2008 was issued to appoint 57 persons who have completed Health Inspector course from the Pondicherry Colleges, which did not fall under the regulations governing the appointment of Sanitary Inspectors under the Tamil Nadu Municipal Public Health Service Regulations 1970. G.O.Ms.No.305 Public Health and Family Welfare Department dated 22.09.2009 was also issued by the Public Health Department on the same lines. It is stated in the impugned order that both the Government Orders in G.O.Ms.No.310, Municipal and Water Supply Department and G.O.Ms.No.305 Public Health and Family Welfare



Department, were issued as special measure and the same will be applicable only to those candidates mentioned in it.

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16. This Court is unable to accept the stand of the fourth respondent in this regard since the Government issued G.O.Ms.No.310, dated 22.07.2008 and G.O.Ms.No.305, dated 22.09.2009 as a special measure to consider some candidates for appointment to the post of Health Inspector considering the sanitary course certificate obtained from the Colleges of Pondicherry, treating the petitioner's case in a different way, will lead to discrimination.

17. At the time when the fourth respondent called for the list of candidates from the Employment Exchange and when the petitioner name was also sponsored, his claim was rejected only on the ground that he secured diploma certificate from R.M.(Rasool Mohamed) College of Paramedical Sciences, Pondicherry. This Court by order dated 03.03.2017 in WP.No.26984 of 2014 negated the stand of the fourth respondent and directed to consider the claim of the petitioner for appointment to the post of Sanitary Inspector, subject to the fulfilment of other qualifications/criteria,



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but now the fourth respondent passed the impugned order rejecting the claim of the petitioner on the ground that there is no provision under the Rules to appoint the petitioner directly in the vacancies of Sanitary Inspectors in the Municipalities.

18. It appears that by issuing the impugned order, dated 17.07.2017, the fourth respondent is making an attempt to circumvent the order dated 03.03.2017 passed by this Court in WP.No.26984 of 2014, which is not permissible under law. When the petitioner's name was sponsored by the Employment Exchange at the earliest point of time, the fourth respondent is not supposed to reject the claim of the petitioner on the same ground which was negated by this Court in WP.No.26984 of 2014, dated 03.03.2017. As such, the claim of the petitioner has to be considered by the fourth respondent for appointment to the post of Sanitary Inspector.

19. In view of the above, this Writ Petition is allowed with the following directions:

i) The proceedings issued by the fourth respondent in Na.Ka.No.11806/2014/J1, dated 17.07.2017 is set aside as it is contrary to



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the order dated 03.03.2017 passed by this Court in WP.No.26984 of 2014.

ii) There shall be consequential direction to the fourth respondent to appoint the petitioner in the post of Sanitary Inspector by extending the benefit of G.O.Ms.No.305 Public Health and Family Welfare Department dated 22.09.2009.

No costs.

Consequently, connected miscellaneous petition is closed.

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Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

pvs



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