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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On : 13.06.2024

Delivered On : **11.09.2024**

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

**W.P.(MD)Nos.18405, 26269, 18375, 18407, 18411, 18494, 18551,
18595, 18598, 18630, 18716, 18858, 18882, 19976, 19998, 25121 of
2023 and 5272 of 2024**

and

**W.M.P.(MD)Nos.15665, 15248, 15249, 15252, 15538, 15539, 15250,
15667, 15686, 15687, 15688, 16475, 16476, 16496, 16498, 21303,
21305, 22614, 22615, 22616, 15403, 15277, 15278, 15279, 15280,
15282, 15284, 15286, 15287, 15288, 15330, 15331, 15332,
15379, 15380, 15398, 15399, 15401, 15426, 15427, 15428, 15430,
15472, 15473, 15537 of 2023,
5053, 5054 and 5055 of 2024**

W.P.(MD)No.18405 of 2023:-

- 1.S.Aristatil
Health Inspector Gr.II,
HSC/HWC: Alanthalai,
Pitchivilai primary Health Center,
Kayamozhi BPHC,
Thoothukudi District.
- 2.C.Muthusamy,
Health Inspector Gr.II,
Pasuvanthani Primary Health Center,
Ottapidaram BPHC,
Ottapidaram Taluk,
Thoothukudi District.
- 3.S.Rajesh,
Health Inspector Gr.II,
HSC/HWC: Adaikalapuram,
Sonaganvillai Primary Health Center,
Kayamozhi BPHC,



Thoothukudi District.

4.K.Karupasamy,
Health Inspector Gr.II,
Vasudevanallur Primary Health Center,
Tenkasi District.

5.S.Saravanakumar,
Health Inspector Gr.II,
HSC/HWC: Nattathi
Sebathayapuram Primary Health Center,
Eral BPHC,
Thoothukudi District.

6.V.Sridhar,
Health Inspector Gr.II,
HSC/HWC: Perur,
Betmanagram Primary Health Center,
Eral BPHC,
Thoothukudi District.

7.M.S.Sivaramasubramaniam,
Health Inspector Gr.II,
HSC/HWC: Alwarthoppu,
Betmanagram Primary Health Center,
Eral BPHC,
Thoothukudi District.

8.C.M.Bibin,
Health Inspector Gr.II,
Pudukottai Primary Health Center,
Thoothukudi District.

9.P.Ananth,
Health Inspector Gr.II,
HSC/HWC: Sivanthipuram,
Vairavikulam BPHC,
Thoothukudi District.

10.C.M.Prabin dhas,
Health Inspector Gr.II,
HSC/HWC: varthanadarkudieruppu,
Muttom BPHC,
Thoothukudi District.



11.V.Ajith,
Health Inspector Gr.II,
HSC/HWC: Thiruvattar,
Thiruvattar Primary Health Center,
Kuttakuzhi BPHC,
Thoothukudi District.

12.R.Micklin Jacks,
Health Inspector Gr.II,
HSC/HWC: Udaiyavillai,
Naduvoorkarai Primary Health Center,
Muttom BPHC,
Thoothukudi District.

13.D.Diamond Bright,
Health Inspector Gr.II,
HSC/HWC: Pinanthode,
Petchiparai Primary Health Center,
Kuttakuzhi BPHC,
Kanyakumari District.

14.G.Venkatesaperumal,
Health Inspector Gr.II,
HSC/HWC: Padarathapulli,
Primary Health Center,
Perilovanpatti BPHC,
Thoothukudi District.

15.A.Dinesh,
Health Inspector Gr.II,
HSC/HWC: Maniyachi,
S.Kailasapuram Primary Health Center,
Ottanatham BPHC,
Thoothukudi District.

16.P.Babu,
Health Inspector Gr.II,
HSC/HWC: Muramban,
S.Kailasapuram Primary Health Center,
Ottanatham BPHC,
Thoothukudi District.

17.A.Balaji,
Health Inspector Gr.II,
HSC/HWC: Ottudanpatti,



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S.Kailasapuram Primary Health Center,
Ottanatham BPHC,
Thoothukudi District.

- 18.D.Kamaraj,
Health Inspector Gr.II,
HSC/HWC: T.Shanmugapuram,
Keela Eral BPHC,
Thoothukudi District.
- 19.G.Saravanakumar
Health Inspector Gr.II,
Madhupatti Primary Health Center,
Tenkasi District.
- 20.M.Monish Babu,
Health Inspector Gr.II,
Thiruvanthancodu Primary Health Center,
Nagarcoil District.
- 21.M.Logesh,
Health Inspector Gr.II,
HSC/HWC: Kumarapuram,
Aralvaimozhi Primary Health Center,
Chenbagaramnputhoor BPHC,
Kanyakumari District.
- 22.B.Nishanth,
Health Inspector Gr.II,
HSC/HWC: Mattor,
Thiruvattar Primary Health Center,
Kuttakuzhi BPHC,
Kanyakumari District.
- 23.C.Sujin,
Health Inspector Gr.II,
HSC/HWC: Thenmanoor,
Kuttakuzhi BPHC,
Kanyakumari District.
- 24.S.Kathir Joyson,
Health Inspector Gr.II,
Kulainayaneri Primary Health Center,
Sankarankoil BPHC,
Tenkasi District.



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- 25.B.Gnana Blesso,
Health Inspector Gr.II,
HSC/HWC: Mankuzhi,
Naduvoorkarai Primary Health Center,
muttom BPHC,
Kanyakumari District.
- 26.M.Krishna Varun Raj,
Keela Eral BPHC,
Kovilpatti
Thoothukudi District.
- 27.A.Akhil,
Health Inspector Gr.II,
HSC/HWC: Kappukadu,
Munchirai Primary Health Center,
Arudesam BPHC,
Kanyakumari District.
- 28.T.L.Abijesh,
Health Inspector Gr.II,
HSC/HWC: Ganeshapuram,
Aralvaimozhi Primary Health Center,
Chenbagaramnputhoo BPHC,
Kanyakumari District.
- 29.V.Vivek,
Health Inspector Gr.II,
HSC/HWC: Paraikkai,
Singlayerpuri Primary Health Center,
Rajakamangalamthurai BPHC,
Kanyakumari District.
- 30.T.Raja Gobal,
Health Inspector Gr.II,
Edaicode Primary Health Center,
Kanyakumari District.
- 31.M.Rajaram,
Health Inspector Gr.II,
Ganapathypuram Primary Health Center,
Rajakamangalamthurai BPHC,
Kanyakumari District.



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32.J.Sunil,
Health Inspector Gr.II,
HSC/HWC: Vembanoor,
Ganapathypuram Primary Health Center,
Rajakamangalamthurai BPHC,
Kanyakumari District.

33.S.Priyesh,
Health Inspector Gr.II,
HSC/HWC: kunnathoor,
Munchirai Primary Health Center,
Arundesam BPHC,
Kanyakumari District.

34.Augesto A.Lazen,
Health Inspector Gr.II,
HSC/HWC: Azhagiapandiapuram,
Aralvoimozhi Primary Health Center,
Chenbagaramnputhoo BPHC,
Kanyakumari District.

35.S.Ashlin Jacob,
Health Inspector Gr.II,
HSC/HWC: Ankudy,
Ganapathypuram Primary Health Center,
Rajakamangalamthurai BPHC,
Kanyakumari District.

36.S.U.Sachith,
Health Inspector Gr.II,
Kuttakuzhy BPHC,
Kanyakumari District.

37.S.Sam Repiro,
Health Inspector Gr.II,
HSC/HWC: Erachakulam,
Aralvoimozhi Primary Health Center,
Chenbagaramnputhoo BPHC,
Kanyakumari District.

38.T.Krishnakumar,
Health Inspector Gr.II,
HSC/HWC: Pallanthurai,
Ganapathypuram Primary Health Center,



Rajakamangalamthurai BPHC,
Kanyakumari District.

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39. G. Suresh,
Health Inspector Gr.II,
HSC/HWC: Periyapillaivalasi,
vadamkaraikilpidagai BPHC,
Tenkasi District.
40. K. Rajendra kumar,
Health Inspector Gr.II,
HSC/HWC: Marukkalankulam,
Uthumalai Primary Health Center,
Nettur BPHC,
Tenkasi District.
41. A. Vigneshkumar,
Health Inspector Gr.II,
Veeranam Primary Health Center,
Sankarankoil
Tenkasi District.
42. A. Srinivasan,
Health Inspector Gr.II,
HSC/HWC: Viswanahaperi,
Tenmalai Primary Health Center,
Tenkasi District.
43. M. Krishnamoorthy,
Health Inspector Gr.II,
HSC/HWC: Thiruvedanallur,
Madathupatti Primary Health Center,
Karivalamvanthanallur BPHC,
Tenkasi District.
44. S. Saravanakumar,
Health Inspector Gr.II,
HSC/HWC: Veerasingamani,
Madathupatti Primary Health Center,
Karivalamvanthanallur BPHC,
Tenkasi District.
45. J. Padmanaban,
Health Inspector Gr.II,
HSC/HWC: Ariyanayagipuram,



Madathupatti Primary Health Center,
Karivalamvanthanallur BPHC,
Tenkasi District.

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- 46.M.Riswan Hussain,
Health Inspector Gr.II,
HSC/HWC: Iynthamkattalai,
Koviloothu Primary Health Center,
Kadayam BPHC,
Tenkasi District.
- 47.M.Kalicharan,
Health Inspector Gr.II,
HSC/HWC: Thadicherry,
veerapandi BPHC,
Theni District.
- 48.C.K.Balavasanthan,
Health Inspector Gr.II,
Elumalai Block Primary Health Center,
Madurai District.
- 49.B.Hemanth,
Health Inspector Gr.II,
HSC/HWC: Chithur,
Devipattinam BPHC,
Ramanathapuram District.
- 50.K.Kathiresan,
Health Inspector Gr.II,
Elumalai Block Primary Health Center,
Madurai District.
- 51.K.Suresh Kumar,
Health Inspector Gr.II,
HSC/HWC: Silaiman,
Valayankulam BPHC,
Madurai District.
- 52.B.Senthil Kumar,
Health Inspector Gr.II,
HSC/HWC: Sakkarakottai,
Devipattinam BPHC,
Ramanathapuram District.



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53.G.Manirajan,
Health Inspector Gr.II,
HSC/HWC: Kurumbapatti,
Seelapadi Primary Health Center,
Thadicombu BPHC,
Dindugul District.

.... Petitioners

Vs.

- 1.The Government of Tamil Nadu
Rep. By its principal secretary to Government ,
Health Department
Secretariat,
Chennai- 600 008
- 2.The Director of Public Health and Preventive Medicines,
Chennai- 600 008.
- 3.The Deputy Director of Health Service / Executive Secretary, District
Health Society,
Thoothukudi District,
Thoothukudi.
- 4.The Member secretary,
Medical Services Recruitment Board (MRB),
DMS Building - 7th Floor,
359, Anna salai,
Teynampet,
Chennai – 600 006.
- 5.The Chairman,
Board of Examination for Multipurpose Health
Worker (Male) // Health Inspector / Sanitary
Inspector Training course and
the Director of Public Health and Preventive Medicine,
Chennai – 6.
(R4 is *suo moto* impleaded vide Court
order dated 11.09.2024 by LVGJ)

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the Notification No.06/MRB/2023, dated 11.07.2023, issued by



the 4th respondent and quash the same and consequently, direct the respondents to give preference to the petitioners and also weightage to the previous service of 20 months rendered for COVID 19 duties and further service being rendered from December 2021 under National Health Mission and select the petitioners for appointment as Health Inspector Grade II in the vacancies for which recruitment is being made within a time limit.

For Petitioners : Mr.M.Sricharan Rengarajan
For Mr.A.Thirumoorthy
For Respondents 1 to 3 : Mr.P.Veera Kathiravan,
Additional Advocate General
Assisted by Mr.D.S.Nedun Cheliyan
Government Advocate
For 4th Respondent : Mr.V.Ramesh, Standing Counsel

COMMON ORDER

All these Writ Petitions came to be filed, to quash the impugned Notification No.06/MRB/2023, dated 11.07.2023, of the Medical Recruitment Board and consequently seeking the following reliefs:-

I. To direct the respondents to absorb the petitioners in the post of Health Inspector Grade II on the basis of the priority for the COVID-19 duties rendered by the petitioners in the light of the circular issued by the Government of India, Ministry of Health and Family Welfare, dated 03.05.2021.

II. To direct the respondents to appoint the petitioner as Health Inspector by considering his service experience as Health Inspector under the National Mission, which is implemented by the first and third respondents.



III. To direct the respondents to give preference to the petitioners by offering weightage to their previous service of 20 months rendered for COVID-19 duties and further service rendered by them from December 2021 under National Health Mission and select the petitioners for appointing them as Health Inspectors Grade II in the vacancies, for which the recruitment has been notified.

IV. To direct the respondents to consider the petitioners for regular recruitment as Health Inspector on preferential basis, considering their 2 years Health Inspector course with 6 months “Part – III - Field Training” and the marks secured against the total 1050 marks prescribed for 2 years of 2017 - 2019 and 20 months of COVID-19 life threatening service and further continuation in service from April 2020 till date.

V. To quash the impugned G.O.Ms.No.299, Health and Family Welfare (L1) Department, dated 12.09.2023, issued by the first respondent and further consider the petitioners for regular recruitment as Health Inspector Grade II on preferential basis, considering their 2 full years of services Health Inspector.

VI. To quash para 7(a) and 7(b) relating to the procedure for selection in impugned recruitment Notification No.06/MRB/2023, dated 11.07.2023.

VII. Deviating from other petitions in W.P.(MD)No.18411 of 2023, the consequential relief sought for is to permit the petitioners, who have studied 1 year Health Sanitary Inspector (NSQF) course offered by the Ministry of Skill Development and Entrepreneurship under the guidance of



the Directorate of General Training, Government of India, to participate in the recruitment to the post of Health Inspector Grade II within a stipulated period of time.

2.All the writ petitioners herein were appointed as Health Inspectors Grade II on 28.04.2020, that is, during COVID-19 pandemic period. All the writ petitioners possess basic qualification of SSLC and higher secondary with two years Multipurpose Health Worker (male)/Health Inspector/Sanitary Inspector Training course conducted by the Board of Examinations of the Department of Public Health and Preventive Medicine of the Government of Tamilnadu. Pursuant to the communication of the second respondent in R.No.26666/MP.1/S1/2020, dated 15.04.2020, the third respondent, that is, the Deputy Directors of Health Services concerned, appointed the petitioners as Health Inspector Grade II in the Primary Health Centers in Thoothukudi and other Southern districts on a monthly consolidated pay of Rs.20,000/-, to carry out COVID-19 health and preventive works from 28.04.2020, that is, on the sudden breakout of COVID-19 pandemic in the State of Tamilnadu.

3.Accordingly, the petitioners have worked from 28.04.2020 to December 2021, that is, for a period of one year and eight months. Thereafter, on due certificate verification and preference as decided by the



selection committee along with weightage based scoring, the third respondent had appointed the petitioners as Health Inspector Grade II in the National Health Mission, that is, Makkalai Thedi Maruthuvam Scheme for a meager and lesser monthly salary of Rs.11,000/- and now the petitioners are working in the service of the Government of Tamilnadu under the *bonafide* expectation of regularization of their service and for permanent appointment. Though the petitioners have completed the Health Inspector course during the years 2017-2018 and 2018-2019, that is, from 11.12.2017 to 27.12.2019, the second respondent had issued the “course certificate” alone. Though it is stated in the course certificate that the petitioners have secured first class in the Health Inspector course, mark statements were not issued immediately. However, later to their shock and surprise, the second respondent issued mark statement mentioning that a pass in Multi purpose Health Worker (Male), that is, (MPHW) (M/HI/SI) training course examinations required a minimum of 50 percentage of marks in each subject, that is, 75 marks out of 150 marks. However, there is no mention about the percentage of marks for classification of the ranks as distinction or first class or second class. While so, the fourth respondent issued the Notification No.06/MRB/2023, dated 11.07.2023, calling for online applications up to 31.07.2023, for direct recruitment to fill up 1066 post of Health Inspectors.

4.In the said recruitment Notification under 'procedure of selection' in



para 7(a), the minimum education qualification has been mentioned as certificate or diploma with HSC qualification and weightage of marks have been prescribed as (i)20% for SSLC marks, (ii)30% for higher secondary/PUC marks and (iii)50% for Health Inspector course marks. The petitioners having continuously contributed their service risking their lives working as Health Inspectors Grade II during COVID-19 pandemic from 28.04.2020 to December 2021, that is, for a period of 20 months. In the aforesaid Notification dated 11.07.2023, no weightage marks has been offered for the life saving service rendered by the petitioners. That apart, when preference along with weightage based scoring was followed for the appointment of the petitioners as Health Inspector Grade II under the National Health Mission, that is, Makkalai Thedi Maruthuvam Scheme and when the petitioners were in service as Health Inspector Grade II from December 2021 to till date for a meagre monthly salary of Rs.11,000/-, the petitioners service ought to have been regularized before going for fresh direct recruitment or at least a weightage ought to have been granted or allotted for the service already rendered by the petitioners. Since the said provision is not made in the Notification, dated 11.07.2023, these Writ Petitions came to be filed seeking to quash the same for grant of weightage to their previous service till December 2021.

5.Deviating from the other Writ Petitions, in W.P.(MD)No.18411 of 2023, the petitioner having completed her SSLC and plus 2 studies at



Government Higher Secondary School, at Tirunelveli district, she later completed one year certificate course in Health Sanitary Inspector, at Thiagarajar PVT Industrial Training Institute, in Salem District, offered by the National Council for Vocational Training offered by the Ministry of Skill Development and Entrepreneurship under the guidance of the Directorate of General Training, Government of India. Her selection was based on single window counseling system offered by the Government of Tamil Nadu for ITI admission during the year 2021. She had scored 544 marks out of 600 in the said course. However, in the impugned notification No.06/MRB/2023 dated 11.07.2023, candidates with qualification as that of the petitioner have been excluded from participating in the recruitment process for the post of Health Sanitary Inspector Grade II. Hence, the said Writ Petition has been filed challenging the impugned notification to the extent of neglecting the students like the petitioner, who have studied one year Health Sanitary Inspector (NSQF) course offered by the Ministry of Skill Development and Entrepreneurship, Government of India.

Submissions:-

6.The arguments put forth by the various counsels for the various petitioners are crystallized as here under:-

(i)The impugned recruitment notification dated 11.07.2023, is *per se* illegal for the prime reason that applications have been invited for direct recruitment on “**Temporary basis**” to the post of Health Inspector Grade II



in Tamil Nadu Public Health Subordinate Service, claiming that the petitioners are serving as Multipurpose Health Worker (male)/Health Inspector Grade II. The learned counsels for the petitioners insisted that a temporary employee cannot be replaced by another temporary employee, but can be replaced only by another candidate, who is regularly appointed by following the procedure established by law and as such, the said impugned Notification is bad in the eye of law.

(ii)The distribution of vacancies in Clause 2(II) more particularly with respect to PSTM category is erroneous and hence, the Notification is liable to be quashed.

(iii)The procedure of selection in Clause 7(a), (b) and (c) of the impugned notification is discriminatory and violative of Articles 14 and 16 of the Constitution of India. Having prescribed the minimum educational qualification required for the post of Health Inspector Grade II as certificate or diploma with HSC qualification, the weightage of marks offered to SSLC marks is obviously unwarranted.

(iv)Having acknowledged the fact that mark statements for Multipurpose Health Worker (Male)/Health Inspector/Sanitary Inspector course have not been awarded to the candidates in many of the institutes prescribing the procedure for such cases that the minimum pass mark for the course would be taken as marks obtained by those candidates is explicitly discriminatory.

(v)The recommendations of the Hon'ble Supreme Court in *suo moto*



W.P.No.3 of 2021, more particularly requiring the respective State Governments to ensure that the Health Care Personnel who contributed during COVID-19 pandemic to continue in service with the assistance from the Central Government is conveniently swept under the mat by the State Government.

(vi)The petitioners who served as Health Inspectors during COVID 19 pandemic were not given any priority. The circular dated 03.05.2021, issued by the Ministry of Health and Family Welfare, Government of India, has not been adopted by the State Government.

(vii)Equating both the certificate course and diploma course in the same scale would lead to discrimination.

(viii)Exclusion of female candidates for the post of Health Inspector Grade II is discriminatory.

(ix)Mark statements issued to 2020 batch who have passed out the Multipurpose Health Worker (male) training course are erroneous and the certificates issued are also contrary to the mark statements. Hence, weightage marks prescribed for the marks scored during the diploma/ certificate course would obviously lead to irregular recruitment.

(x)The impugned notification more particularly Clause 2 and 7 are misleading and arbitrary.

7.The learned Additional Advocate General Mr.Veera Kathiravan appearing for the respondents submitted that the previous nomenclature of



the post was Multipurpose Health Worker (male). There are separate posts available for female candidates, such as, Multipurpose Health Worker female, now re-designated as Village Health Nurse. None of the petitioners were appointed in any sanctioned vacancy and their appointments were neither temporary nor one made in the sanctioned post. The petitioners were actually engaged on contract basis in “Makkalai Thedi Maruthuvam Scheme” until the scheme had been in vogue.

8.As far as the allegation of the petitioners that the mark statement issued for the certificate/diploma course were improper, the learned Additional Advocate General submitted that the Medical Recruitment Board will only consider the mark statement. Hence, the Department of Public Health had issued mark sheets instead of grade sheets. Students answer sheets are still maintained under the custody of the Department of Public Health and any time anyone can verify it and there can be no dispute with the mark statements. He further categorically contended that in view of these Writ Petitions filed before this Court, the Government had carefully examined the issue and had magnanimously issued yet another government order in G.O.Ms.No.299, Health and Family Welfare (L1) Department, dated 12.09.2023, granting incentive marks for contract Health Inspectors appreciating their service during COVID pandemic. In view of the same, he pressed for vacating the interim stay and allow the appointment process to proceed with by dismissing the Writ Petitions.



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9. Heard the learned Senior Counsel Mr. Sricharan Rangarajan for Mr. A.Thirumoorthy, Mr. Aswin Raja Simman for M/s. Lajapati Roy Associates, Mr. S. Louis, Mr. S.Malaikani, Mr.Ragatheesh Kumar for M/s. Isaac Chambers, Mr.R.Venkatesan for M/s. Right Law Associates on behalf of the petitioners, the learned Additional Advocate General, Mr. V.Veera Kathiravan, assisted by J.K.Jeyaseelan, Government Advocate and Mr.V.Ramesh for the respondents, and anxiously perused the materials available on record.

Analysis:-

10.The impugned notification in Notification No.06/MRB/2023, dated 11.07.2023, issued by the Medical Services Recruitment Board (MRB), inviting applications from male candidates through online mode for direct recruitment on temporary basis to the post of Health Inspector Grade II in Tamil Nadu Public Health Subordinate Service, has opened up a Pandora's box, giving way to all these petitioners to file a number of Writ Petitions, challenging the aforesaid notification.

11.All the petitioners in W.P.(MD)Nos.18405 of 2023, 18407 of 2023, 25121 of 2023, and 18630 of 2023, have completed SSLC, Higher Secondary Course and two years Multipurpose Health Worker (male)/Health Inspector/Sanitary Inspector training course, conducted by the Board of



Examinations of Department of Public Health and Preventive Medicine of the Government of Tamil Nadu, between the academic years 2017-2019, in various institutes.

12.All the petitioners in W.P.(MD)No.18375 of 2023, have completed SSLC, Higher Secondary Course (biology group), B.Sc chemistry degree and postgraduate diploma in Sanitary Inspector course at Gandhigram Rural Institute. All the other petitioners in W.P.(MD)Nos.18716, 18598, 18595, 18551, 18494, 19998, 19976, 18882, 18858, 26269 of 2023 and 5272 of 2024, except one Essakiamal, the writ petitioner in W.P.(MD)No.18411 of 2023, have completed two years Multipurpose Health Worker (male)/Health Inspector/Sanitary Inspector training course, conducted by various institutes across Tamil Nadu, during 2017-2019. The aforesaid Essakiammal has undergone one year certificate course in Health Sanitary Inspector, July 2022, at Thiagarajar PVT Industrial Institute, Salem.

13.In the year 2020, the World Health Organization declared COVID-19 epidemic, which affected more than 195 countries, including India, as public health emergency of international concern and had characterized the same as pandemic, which required urgent massive effort for control. Pursuant to the same, as an emergency measure, the powers were delegated under Section 7 of the Tamil Nadu Public Health Act, 1939, to the Director of Public Health, to recommend measures, that may be



necessary for improving the Public Health Administration, in the local area, or for safeguarding the public health. Following which, the Director of Public Health and Preventive Medicine, Chennai - 6, issued a circular in R.No. 26666/MP.1/S1/2020, dated 15.04.2020, requesting the Deputy Director of Health Services, to engage Multipurpose Health Workers (male), on outsourcing on temporary basis, for a period of 3 months. The qualification as prescribed, for engaging Multipurpose Health Workers (male), at a consolidated pay of Rs.20,000/- per month, through outsourcing on temporary basis, for a period of 3 months, is as follows:-

“Qualifications:

(i)Must have passed plus two with Biology or Botany and Zoology.

(ii)Must have passed Tamil language as a subject in S.S.L.C. Level.

(iii)For those who have acquired Multipurpose Health Worker (Male) Course/Sanitary Inspector Course in University affiliated/Government recognized institutions prior to 13.04.2017 plus two with Biology or Botany and Zoology with one year Multipurpose Health Worker (Male) Course. The syllabus followed in such institutes should be equivalent to the syllabus prescribed by the Director of Public Health and Preventive Medicine.

(iv)For those who have acquired Multipurpose Health Worker (male) Course/Sanitary Inspector Course in University affiliated/Government recognized institutions after 13.04.2017 plus two with Biology or Botany and Zoology with two year Multipurpose Health Worker (Male) Course.”



14.A total number of 2215 persons, as qualified supra, were engaged as Health Inspector Grade II and were posted across 42 districts, in the State of Tamil Nadu. All the 2215 persons, appointed as Health Inspector Grade II, were recruited by outsourcing, exclusively for the purpose of managing the outbreak of COVID-19, in the State of Tamil Nadu. While being so, the Department of Health and Family Welfare issued G.O.Ms.No. 516, dated 19.11.2021, issuing operational guidelines, for strengthening of health and wellness centers, under the Makkalai Thedi Maruthuvam Scheme, of the National Health Mission, by which, placement of 2448 Multipurpose Health Worker, (male)/Health Inspector Grade II, in Health Sub Centers, were also approved. The selection criteria, qualification and eligibility for the purpose of engaging Multipurpose Health Worker (male)/Health Inspector Grade II, under the Makkalai Thedi Maruthuvam Scheme, was also mandated in the aforesaid G.O.Ms.No.516, dated 19.11.2021, and the same is as follows:-



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I. Selection Criteria:

A competitive exam at District level through District Health Society could be conducted containing both essay pattern and MCQ type. (25 marks for Essay +25 MCQ (1 mark each)) for 50 marks eligibility with the prescribed qualifications could be considered as the selection criteria by following the 200 resters (communal rotation).

The transparency and quality of the exam will be audited concomitantly by Director of Public Health and Preventive Medicine and National Health Mission, Tamil Nadu. The question paper will be prepared at the state level and exam mode will be online.

II. Rationalization:

Further, it is submitted that these posts are temporary and contract basis (through District Health Society) would be rationalized by considering the in-position of Multi-Purpose Health Worker (male) in other parallel programs/scheme and regular postings to ensure that not more than one Multi-Purpose Health Worker (male) is engaged in per Health and Wellness Centre, Health Sub Centre.

III. Qualification and Eligibility:

Designation	No. of Posts	Qualification and Eligibility	Salary Per person per month
Multi-Purpose Health Worker (male) / Health Inspector Gr.II	2448	i) Must have passed plus two with Biology or Botany and Zoology ii) Must have passed Tamil language as a subject in S.S.L.C level. iii) Must possess two years for Multi-purpose Health Worker (Male) / Health Inspector / Sanitary Inspector Course training / offered by recognized Private Institution / Trust / Universities / Deemed Universities including Gandhigram Rural Institute training course certificate granted by the Director of Public Health and Preventive Medicine.	Rs.11,000/-

9. The Government have examined the proposal of the Mission Director, National Health Mission in detail. As per the existing rules and regulations in force, Medical Services Recruitment Board is the recruiting agency for selection of para medical post in Health and Family Welfare department, duly following the communal rotation, not district health society. The Government therefore issue the following orders:-

- the Mission Director, National Health Mission is permitted to place 2448 Multipurpose Health Workers (Male) / Health Inspector Grade II in Health Sub Centres - Health and Wellness Centres as detailed below:-



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Designation	No. of Posts	Qualification and Eligibility	Salary / person Rs.	Mode of appointment
MPHW (male) Health Inspector Grade II	2448	i. Must have passed plus two with Biology or Botany and Zoology ii. Must have passed Tamil language as a subject in S.S.L.C level. iii. Must possess two years for Multi-purpose Health Worker (Male) / Health Inspector / Sanitary Inspector Course training / offered by recognized Private Institution / Trust / Universities / Deemed Universities including Gandhigram Rural Institute training course certificate granted by the Director of Public Health and Preventive Medicine.	11,000/- per month	On Contract basis through District Health Society.

- ii. The Mission Director, National Health Mission is directed to adopt the modality for selection of contractual Multipurpose Health Workers (male) / Health Inspector Grade II in Health and Wellness Centres as prescribed in the selection of contractual Mid-Level Healthcare Providers in Health Sub Centres - Health and Wellness Centres under National Health Mission.

15. Almost all the petitioners, except few, who were originally appointed as Health Inspectors Grade II, in pursuance of the Communication, of the Director of Public Health and Preventive Medicine, Chennai, dated 15.04.2020, were appointed as Health Inspector Grade II, in Health Sub Centers/Health and Wellness Centers, on contract basis, for a consolidated pay of Rs.11,000/- per month, purely, temporarily, in nature.



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16. The cry of the petitioners is that, when they were rendering their unblemished service and were under the legitimate expectation of being regularized in service and for a permanent appointment, the impugned Notification, in Notification No.06/MRB/2023, dated 11.07.2023, inviting applications from male candidates, for direct recruitment, on temporary basis to the post of Health Inspector Grade II in Tamil Nadu Public Health Subordinate Service, came to be issued by the Medical Recruitment. In view of the various arguments, put forth by the learned counsels for the petitioners, challenging the impugned notification, dated 11.07.2023 and the counter argument made by the learned Additional Advocate General, the following important questions have arisen for the consideration of this Court:-

I. Whether the impugned notification inviting applications only from male candidates for direct recruitment on temporary basis to the post of Health Inspector Grade II, in Tamil Nadu Public Health Subordinate Service, violate Articles 14 and 16 of the Constitution of India ?

II. Whether the distribution of vacancies in Clause 2(II) of the impugned notification has violated the rule of reservation for PSTM category?

III. Whether Clause 6B of the impugned notification, providing for educational qualification, is bad, as far as excluding those, who have undergone one year Multipurpose Health Worker training course, after 13.04.2017?



IV. Whether the procedure of selection envisaged under Clause 7(a) and 7(b) of the impugned notification, is liable to be quashed?

V. Whether the impugned G.O.Ms.No.299, Health and Family Welfare Department, dated 12.09.2023, is liable to be quashed?

17.Question No.1:- **Whether the impugned notification inviting applications only from male candidates for direct recruitment on temporary basis, to the post of Health Inspector Grade II in Tamil Nadu Public Health Subordinate Service, violates Articles 14 and 16 of the constitution of India?**

17.1.It is already elucidated above that the petitioners were among the 2215 candidates who were engaged as Multipurpose Health Workers (male) in the cadre of Health Inspector Grade II, in terms of the annexure to the circular of the Director of Public Health and Preventive Medicine, Chennai-6 in R.No.2666/MP.1/S1/2020, dated 15.04.2020. The petitioners were engaged as Health Inspector Grade II at a consolidated pay of Rs.20,000/- per month through outsourcing on temporary basis from 31.03.2020 and were appointed across the 42 districts in the State of Tamil Nadu. Further from December 2021, under the National Health Mission, they were appointed as Multipurpose Health Worker (male)/Health Inspector Grade II in Health Sub Centers/Health and Wellness Centers on contract basis at a consolidated pay of Rs.11,000/- per month, under the National Health Missions Scheme. A total number of 2448 candidates were appointed as



Health Inspector Grade II including the petitioners under the National Health Mission. While they were continuing service as Health Inspector Grade II under the Health Mission Scheme, the impugned notification dated 11.07.2023, came to be issued by the Medical Recruitment Board. The learned Additional Advocate General Mr.Veerakathiravan categorically submitted that the petitioners and others were engaged as Health Inspector Grade II at the first instance pursuant to the proceedings of the Director of Public Health and Preventive Medicine, Chennai dated 15.04.2020, and thereafter under a National Health Mission only on contract basis and their appointment can never ever be considered to be on temporary basis in a cadre post.

17.2. Time and again, the Hon'ble Apex Court and this Court have deprecated the attitude of the Central and State Governments in engaging contract employees and after having exploited work continuously from such employees, thereafter, disengage them by inviting applications from others to replace the already working employees who were working on contract basis. No doubt, the appointees under the Makkalai Thedi Maruthuvam under the National Health Mission Scheme cannot claim for a regularization, in view of the nature of their employment on contract basis which cannot be equated to adhoc employment. It is categorically argued by the petitioners that a temporary employee cannot be replaced by another temporary employee and he can be replaced only by another candidate who is regularly



appointed by following a regular procedure of selection under the established procedure of law, relying upon the judgment of the Hon'ble Apex Court in the case of the **Manish Gupta and another v. President, Jan Bagidari Samithi and others** reported in **2022 SCC online SC 485**, which has held as follows:-

“12.A perusal of the advertisement dated 24 June, 2016 issued by the Principal, Government Kamla Raja Girls Post Graduate Autonomous College, Gwalior, which is at Annexure P-2 of the Appeal Paper Book and the advertisement dated 2 July, 2016 issued by the Principal, SMS Government Model Science College, Gwalior, M.P., which is at Annexure P-3 of the Appeal Paper Book, would show that the appointments were to be made after the candidates had gone through due selection procedure. Though Shri Nataraj, learned ASG has strenuously urged that the appointments of the appellants were as guest lecturers and not as ad hoc employees, from the nature of the advertisements, it could clearly be seen that the appellants were appointed on ad hoc basis. It is a settled principle of law that an ad hoc employee cannot be replaced by another ad hoc employee and he can be replaced only by another candidate who is regularly appointed by following a regular procedure prescribed. Reliance in this respect can be placed on the judgment of this Court in the case of Rattan Lal v. State of Haryana and on the order Court in the case of Hargurpratap Singh v. State of Punjab.”

17.3.As far as inviting applications only from male candidates to the post of Health Inspector Grade II, the same is a post which is earmarked as



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Multipurpose Health Worker (male)/Health Inspector Grade II. The learned Additional Advocate General Mr.Veera Kathiravan, rightly submitted that there are posts in the Tamil Nadu Public Health Subordinate Services exclusively earmarked for male as well as female candidates. While the Multipurpose Health Workers (male) are given the nomenclature Health Inspector Grade II, the Multipurpose Health Worker (female) has been given the nomenclature Village Health Nurse and the said post is exclusively to be appointed with female candidates. In view of the same, I do not find any demerit in classifying the Health Inspector Grade II post for male and the Village Health Nurse post for females and the same is reasonable in view of the avenue of work to be executed by the appointees to the aforesaid post in the rural and urban areas.

17.4.The Government issued G.O.Ms.No.337, Health and Family Welfare (L1) Department, dated 02.08.2019, declaring the cadre strength for the post of Multipurpose Health Worker (male) (Health Inspector Grade II) and Multipurpose Health Supervisor (Health Inspector Grade I) as per the revised norms and the net vacancy as per the said GO is as follows:-

	Cadre Strength sanctioned as per Revised Norms	Men in position (as on date)
Grade I Health Inspector	1806	2063
Grade II Health Inspector	1641	1050
Total	3447	3113



Vacancies against Total Health Inspector posts		334
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17.5. Having declared the net vacancy for the post of Multipurpose Health Worker (male) (Health Inspector Grade II) as on 02.08.2019 after a passage of four years, now the impugned notification dated 11.07.2023, has been notified by the Medical Services Recruitment Board, hereinafter to be mentioned as MRB, inviting applications for direct recruitment to the post of Health Inspector Grade II for 1066 posts on temporary basis. The policy of adhocism adopted by the State Government for appointments to the post of Health Inspector Grade II in Tamil Nadu Public Health Subordinate Service for appointment in the distribution of vacancies as notified in the impugned notification following the impugned procedure of selection in Clause 7(a) and 7(b) of the impugned Notification dated 11.07.2023, would obviously lead to the breach of Articles 14 and 16 of the Constitution of India. Once direct recruitment of candidates to a particular cadre post is called for, the appointment should be made only on a permanent basis and should never be temporary.

18. Question No.2:- **Whether the distribution of vacancies in Clause 2 (II) of the impugned notification has violated the rule of reservation for PSTM category?**



18.1.Clause 2 of the impugned notification is extracted as follows:-

Category	No. of Vacancies	Ex - Ser.	DAP(PH)	PSTM		Total Vacancies
				G	Ex-Ser.	
GT	257	14	13	43	3	330
BC	220	11	11	37	3	282
BC(M)	29	2	1	5		37
MBC/DNC	165	9	9	28	2	213
SC	124	6	7	21	2	160
SC(A)	25	1	1	5	1	33
ST	8			2	1	11
Total	828	43	42	141	12	1066

18.2.The Government issued G.O.Ms.No.145, Personal and Administrative Reforms (S) Department, dated 13.09.2010, notifying the Tamil Nadu appointment on preferential basis in the services under the State of Persons Studied in Tamil Medium Rules, 2010. Rule 3 of the aforesaid Rules mandates that 20% of all vacancies in the appointment in the services under the State which are to be filled through direct recruitment shall be set apart on preferential basis to persons studied in Tamil medium. Later, the Government further issued G.O.Ms.No.40, Personal and Administrative Reforms (S) Department, dated 30.02.2014, by substituting Rule 3 under the heading Illustration with an annexure earmarking the 20% reservation for persons studied in Tamil medium on preferential basis in every category of communal rotation for reservation. Section 26(5) of the Tamil Nadu Government Servants Conditions of Service



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Act, 2016, provides for appointment of a minimum of 30% of women in all vacancies, which are to be filled through direct recruitment and if a qualified and suitable woman candidate belonging to schedule caste, schedule tribes, backward Classes, backward classes Muslims, most backward classes/denotified communities or general turn is not available for selection for appointment in the turn allotted for women in the cycle, the turn so allotted shall go to a male candidate within the respective category. Hence, a combined reading of section 26(5) of the Tamil Nadu Government Servants Conditions of Service Act, 2016 and Subsection 1 of Section 8 of the Tamil Nadu Appointment on preferential basis in the services under the State of Person Studied in Tamil Medium Act, 2010, (Tamil Nadu Act 40 of 2010) would make it clear that when the posts are not meant for women, then it should have to be notified as reserved for PSTM candidates as per the rotation provided in G.O.Ms.No.40, dated 30.04.2014.

18.3. In view of the same, of the total 1066 vacancies, only 141 plus 12 vacancies have been earmarked for the category PSTM and the same ought to have been 214 and hence, Clause 2(II) is bad and the same is liable to be quashed for violating the mandates of Tamil Medium Act, 2010 and Section 26(5) of the Tamil Nadu Government Servants Conditions of Service Act, 2016.

19. Question No.3:- **Whether Clause 6B of the impugned**



notification providing for “educational qualification” is bad as far as excluding those who have undergone one year Multipurpose Health Worker (male) Training course after 13.04.2017?

19.1.The Department of Health and Family Welfare issued G.O.Ms.No. 107, dated 13.04.2017, revising the guidelines and syllabus to the training imparted for Multipurpose Health Worker (male)/Health Inspector/Sanitary Inspector course offered by private institutions/trusts/universities/deemed universities. By issuance of the aforesaid G.O., the Government after careful consideration accepted the proposal of the Director of Public Health and Preventive Medicine and authorized the Director of Public Health and Preventive Medicine to approve the new guidelines and syllabus of the Multipurpose Health Worker (male)/Health Inspector/Sanitary Inspector course offered by the various institutions/universities, thereby adopting new procedural requirement for the conduct of the said course.

19.2.Accordingly, the revised guidelines for conducting Multipurpose Health Worker (male)/ Health Inspector/Sanitary Inspector Training course dated 13.04.2017, came to be formulated and issued. The duration of the said course came to be revised as 2 years (2 semesters) from 2017 - 2018 onwards. However, the course period would be 1 year for candidates those who have minimum of 5 years service and experience in Public Health Department or Local Body Public Health Establishment. The curriculum and syllabus of the course were also separately revised. Hence, the duration of



the course for Multipurpose Health Worker (male)/Health Inspector/Sanitary Inspector Training course was made 2 years from 2017 - 2018 with effect from 13.04.2017. This Court in a batch of Writ petitions in W.P.Nos.25671 of 2021, batch, has dealt with a similar point and the relevant portion of the same is extracted as follows:-

“11. Point (ii): Whether the persons holding one year Diploma in Sanitary Inspector from Pondicherry University Community College are entitled to seek inclusion of the said course of study as eligibility criteria for recruitment purpose in Tamil Nadu as in Puducherry including applying for the 2448 posts of Multipurpose Health Workers in the Health and Wellness Centres across Tamil Nadu in Annexure VI-A to G.O.Ms. No. 531, Health and Family Welfare Department, dated 25.11.2021 issued by the Government of Tamil Nadu? (W.P. Nos. 25675 and 26518 of 2021)

Some of the persons, who had temporarily worked as Health Inspector Grade II on contract basis were holding one year Diploma in Sanitary Inspector from Pondicherry University Community College, but the said course of study had not been included in Annexure VI-A to G.O.Ms. No. 531, Health and Family Welfare Department, dated 25.11.2021 issued by the Government of Tamil Nadu, though the Principal of Pondicherry University Community College had recommended for its inclusion as eligibility criteria for recruitment purpose in Tamil Nadu as in Puducherry. In this context, it would be useful to recapitulate the principles relating to determination of equivalence of prescribed qualifications for any post under the State with any other given qualification, as highlighted in Devender Bhaskar -vs- State of Haryana (Order dated 24.11.2021 in Civil Appeal No. 7031 of 2021) from the earlier decisions of the Hon'ble Supreme Court of India referred below:-



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(i) *Mohammad Shujat Ali -vs- Union of India* [(1975) 3 SCC 76]: The question regarding equivalence of educational qualifications is a technical question based on proper assessment and evaluation of the relevant academic standards and practical attainments of such qualifications. Where the decision of the Government is based on the recommendation of an expert body, then the Court, uninformed of relevant data and unaided by technical insights necessary for the purpose of determining equivalence, would not lightly disturb the decision of the Government unless it is based on extraneous or irrelevant considerations or actuated malafides or is irrational and perverse or manifestly wrong.

(ii) *Ranga Swamy -vs- Government of Andhra Pradesh* [(1990) 1 SCC 288]: It is not for the Court to consider the relevance of qualification prescribed for various post.

(iii) *State of Rajasthan -vs- Lata Arun* [(2002) 6 SCC 252]: The prescribed eligibility qualification for admission to a course or for recruitment to or promotion in service are matters to be considered by the appropriate authority.

(iv) *Guru Nanak Dev University -vs- Sanjay Kumar Katwal* [(2009) 1 SCC 610]: The equivalence is a technical academic matter. It cannot be implied or assumed. Any decision of the academic body of the university relating to equivalence should be by a specific order or resolution, duly published.

(v) *Zahoor Ahmad Rather & Ors -vs- Sheikh Imtiyaz Ahmad* [(2019) 2 SCC 404]:

The State, as an employer, is entitled to prescribe qualifications as a condition of eligibility, after taking into consideration the nature of the job, the aptitude required for efficient discharge of duties, functionality of various qualifications, course content leading up to the acquisition of various qualifications, etc.,

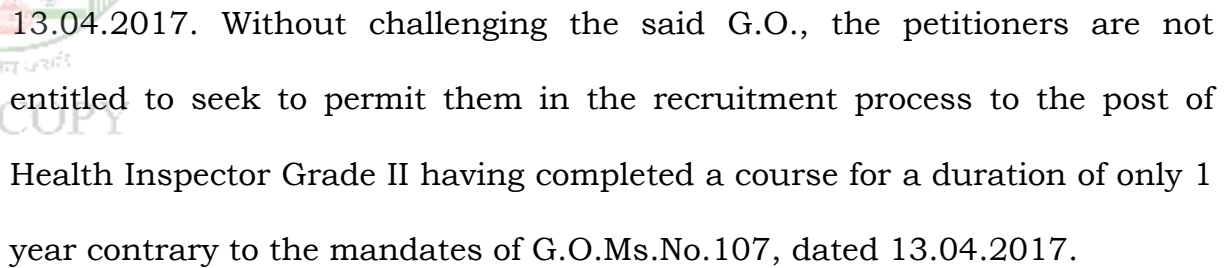
The said view has been reinforced in *Institution of Mechanical Engineers (India) -vs- State of Punjab* [(2019) 16 SCC 95] in the following words:-



“45.What is the value of that certificate will be considered by each employer as and when the occasion arises. The appellant would certainly be entitled to award Certificate of Membership to its Members. What weightage the Certificates must have is for the individual employers to consider in a given case. The concerned employer may attach due importance to such Certificates while considering the worth and ability of the concerned candidates but to say that the Certificates are equivalent to a degree and as such all the candidates who hold such Certificates are entitled to derive the advantage which a degree holder can, is completely a different issue.”

This would necessarily mean that it would not be permissible for the Court to enter into the realm of ascertaining the equivalence of prescribed qualification for any post in public service. At the same time, it must be highlighted that the Government of Tamil Nadu has created a mechanism for the said purpose in G.O. Ms. No. 93, Higher Education (K2) Department, dated 30.05.2019 by constituting the equivalence committee under the Chairmanship of the Secretary to Government, Higher Education Department and has also prescribed the manner in which such exercise would have to be conducted. As such, if the Petitioners have any grievance relating to non-inclusion of their course of study in the prescribed qualification for filling up the vacancies in the regular post, they would have to work out their remedies accordingly in that regard.”

19.3. Since the Government has revised the curriculum guidelines and regulations for conducting Multipurpose Health Worker (male)/Health Inspector/Sanitary Inspector Training course, thereby, changing the duration of the course as 2 years (2 semesters) from 2017-2018 by issuance of G.O.Ms.No.107, Health and Family Welfare (N1) Department, dated



20.Question No.4:-**Whether the procedure of selection envisaged under Clause 7(a) and 7(b) of the impugned notification is liable to be quashed?**

20.1.The Government issued G.O.Ms.No.401, Health and Family Welfare (C2) Department, dated 16.12.2014, amending the rules of procedures of Medical Service Recruitment Board (MRB) for recruitment of various categories of posts in various Government Medical Institutions. As far as paramedical and technical staff, the following amendment came to be implemented and the same is extracted as follows:-



- (ii) Para Medical & Technical Staff with following educational qualifications, namely:-
All direct recruitments to the post of Para medical and technical staff shall be done through a selection process based on open advertisement (in at least two newspapers and one of which must be in vernacular language), along with notifying the vacancies with the Employment Exchange. After obtaining eligible list sponsored by the Employment Exchange, open advertisement in at least two newspapers, (one of which must be in vernacular language) is published inviting application. The list of candidates sponsored by the Employment Exchange is intimated to apply for the concerned post, as per the advertisement, to the Medical Services Recruitment Board. The process of selection shall be based on the marks obtained by the candidates in various examinations by giving weightages to their academic performance (upto two decimal in percentage) as detailed below.

Minimum educational qualification required for the post	Weightage of marks		
	Degree/ Diploma/Certificate	HSC/ P.U.C.	SSLC/10 th
a. Degree	50%	30%	20%
b. Diploma	50%	50%	00%
c. Certificate with PUC/HSC qualification	50%	50%	00%
d. Certificate with SSLC	30%	NA	40%
e. Minimum General Educational Qualification (SSLC Pass)	NA	NA	100%

(NA = Not Applicable)

- (a) Wherever the basic essential qualification for a technical post is a diploma / certificate, has been changed from SSLC to HSC, in all such cases the weightage may be restricted to marks obtained in SSLC and the technical diploma / certificate (instead of HSC and the technical diploma / certificate).
- (b) In cases of lesser number of vacancies for a particular post, and in cases where the notified vacancies are pertaining only to one or few districts only, the notified vacancies may be sent to the District Employment Exchanges concerned instead of the State level Employment Exchange.
- (c) In cases where recruitment is to be done on an urgent basis, Government may specifically direct the Medical Services Recruitment Board to conduct recruitment by only way of open advertisement (in at least two newspapers, one of which must be in vernacular language).



20.2. The validity of the aforesaid G.O., more particularly with respect to the weightage of marks came to be tested before this Court in W.P.No. 2466 of 2018, dated 05.02.2018 and this Court had upheld the same and the relevant portion is extracted as follows:-

“4. When the aforesaid Government Order in G.O.Ms.No. 401 dated 16.12.2014 is in force, the 5th respondent has issued a Notification No.6/MRB/2016 dated 31.1.2016 for filling up 333 posts of Pharmacist. Aggrieved by the same, the petitioner has filed W.P.No.5705/2016 challenging the validity of G.O.Ms.No.401 dated 16.12.2014 along with other petitioners. A Division Bench of this Court, by an order dated 06.11.2017 disposed of the said Writ Petitions making it clear that the respondents, without giving effect to weightage system, have to select the candidates in accordance with law. Aggrieved by the Division Bench Order, SLP.Nos.34134 to 43135/2017 have been filed. The same was also dismissed. Thereafter, a representation has been sent on 12.01.2018 seeking the respondents to moderate the weightage system to create a level playing field in the appointment to the post of Pharmacist, considering the G.O.Ms.No.328, Health and Family Welfare Department, dated 08.10.2009. The same has not been considered. Hence the present Writ Petition.

6. This Court hardly finds any merit in the writ petition. The reason is that when the petitioner had already filed W.P.No. 5705/2016 challenging the validity of G.O.Ms.No.401, Health and Family Welfare (C2) Department, dated 16.12.2014 and the same has also been disposed of along with other Writ Petitions and the Special Leave Petitions filed against the same have also been dismissed, it goes without saying that the weightage marks specified in the said Government Order followed for appointment of



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Pharmacists has become final. Therefore, giving any representation dated 12.01.2018 is wholly misconceived. Hence, I am not inclined to give any direction as sought for by the petitioner in the present Writ Petition.”

20.3.In yet another case in W.P.(MD)No.2861 of 2018 dated 14.02.2018, the said G.O. came to be tested and the relevant portion is extracted as follows:-

“The Medical Services Recruitment Board issued recruitment notification in the year 2016 calling for applications from eligible candidates for filling up 333 vacancies for the post of Pharmacist. It was made clear that candidates sponsored by the employment exchange as well as the candidates from open market would be considered. It was also made clear that G.O.Ms.No.401, Health and Family Welfare Department dated 06.12.2014 will be followed while evaluating the respective merits of the candidates. As per the said Government Order, the weightage of marks is to be awarded as under:

Minimum Educational Qualification required for the post	Weightage of marks (*)		
	Diploma	HSC/PUC	SSLC/ 10 th
	50%	30%	20%

** Note : I. In case marks are not specifically awarded for any batch of the Diploma, then selection for marks scored all will be based on the by the applicants in SSLC and HSC / PUC examinations only. II. Wherever the basic essential qualification for a technical post is a diploma, has been changed from SSLC to HSC, in all such cases the weightage may be restricted to marks obtained*



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in SSLC and the technical diploma (for all the candidates) 7.b. There will be no oral test (Interview) for the post.

2. The matter was considered at length by the Hon'ble Division Bench in WP.No.25786 of 2015. When G.O.Ms.No.401, dated 16.12.2014 was issued, writ petitions were filed before the Principal Bench challenging the said G.O. Those writ petitions were taken up along with the writ petitions in which the recruitment notification issued by the fifth respondent Board in the year 2016 was there. By the common order dated 06.11.2017, the Hon'ble Division Bench disposed of the writ petitions. It was clarified that the P.U.C/12th Standard marks will not be taken into account. Marks secured in 10th Standard and Diploma alone will be taken into account for the purpose of awarding weightage. Since the necessary clarification was provided, the interim order earlier granted stood vacated. 3. Aggrieved by the said common order of the Hon'ble Division Bench, S.L.Ps were filed before the Hon'ble Supreme Court. But the same were dismissed on 22.12.2017. The fifth respondent Board thereafter took up the process of selection from the stage where it was stalled on account of the institution of the writ proceedings. In order to once again put spokes in the wheel, the present writ petition has been filed.

20.4. Respectfully fortified by the aforesaid orders passed by this Court, the procedure of selection under Clause 7(a) in the impugned notification, which has been notified in line with G.O.Ms.No.401, dated 16.12.2014, cannot be interfered with. However, the anomalies in issuance of course certificate as well as mark statements to the various candidates who have undergone the two-year course Multipurpose Health Worker



(male)/Health Inspector/Sanitary Inspector Training course has been brought to the notice of this court by the petitioners herein. In many cases the Director of Public Health and Preventive Medicine has issued the “course certificate” alone, mentioning that the candidates have secured first class in the “Health Inspector course”, but mark statements were not issued immediately. Later the Director of Public Health and Preventive Medicine had issued mark statement and in the said mark statement, it is mentioned that “a pass in the MPHWS (M/HS/SS) training course examinations required a minimum of 50% of marks in each subject, that is, 75 marks out of 150 marks is required”. Further the mark statement did not indicate the date of issuance of the same. The mark obtained by the various candidates for 6 months “Part III - Field Training” was not taken into account to consider the candidate's merit and rank in the Health Inspector course. In furtherance to the same, in the mark statement, there is no mention about the percentage of marks for classification of ranks as distinction or first class or second class. Further the petitioners have completed the Health Inspector Course during the years 2017-2018 and 2018-2019 (I.e., from 11.12.2017 to 27.12.2019), the second respondent has issued the “Course Certificate” alone, mentioning that each of the petitioners have secured “Distinction Class” and “First Class” respectively for all the petitioners in the Health Inspector Course and the certificate was issued only in the year 2020 who had completed the course in various institutions. However, when the mark statements were issued subsequently, the marks of the individuals totally



differed from that of the certificate issued to the petitioners. For example:-

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Name of the candidate	Certificate issued	Marks obtained
1.C.Munusamy	First Class	650 out of 900
2.K.Karuppasamy	Distinction Class	570 out of 900

20.5.Thus it is clear that the certificate, which is undated, issued earlier is in contra to the marks obtained by the individuals and thus the respondents have either not applied their mind in issuing the certificate or they have wantonly indulged in malpractice by reducing the marks secured by the individuals.

20.6.For better clarity, the certificates pertaining to the candidates mentioned supra, namely, C.Munusamy and K.Karuppasamy are extracted as follows:-



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Serial No. : 000022
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DEPARTMENT OF PUBLIC HEALTH AND PREVENTIVE MEDICINE
BOARD OF EXAMINATION
MULTIPURPOSE HEALTH WORKER (MALE)
HEALTH INSPECTOR / SANITARY INSPECTOR TRAINING COURSE
MARK STATEMENT

Name of the Candidate: **MUNUSAMY.C**
Date of Birth: **28-02-1994**
Duration of the Course: **From: 11-12-2017 to 27-12-2019**
Month & Year of Ex-Exam: **NOVEMBER 2019**
Name of the Institute: **VIRUDHAI COLLEGE OF PARAMEDICAL SCIENCE, VIRUDHACHALAM, TAMILNADU**

It is to certify that the above mentioned candidate has appeared for the Multipurpose Health Worker (Male) / Health Inspector / Sanitary Inspector Training Course Examination and obtained the following marks:

Name of the Subject	Max. Marks	Marks Obtained	GRADE
1ST YEAR			
Anatomy, Physiology & Microbiology & Medical Entomology & Parasitology	150	118	PASS
Environmental, Sanitation & Waste Management, Food & Nutrition & Maternal & Child Health Education	150	114	PASS
Introduction to Public Health & International Regulation of Health & Public Health Act & Public Health Problems in India with special reference to Tamil Nadu	150	106	PASS
2ND YEAR			
Control of Communicable & Non-Communicable Diseases, First Aid, Emergency Care & First Aid	150	100	PASS
Health and Vital Statistics, HMIS, Maintenance of Records, RCH, MCH, PNC & Population Education	150	104	PASS
Biostatistics, Research, Communication Skill (PC & General Imp. PC, MCQs, Media)	150	114	PASS
Total Marks	900	676	

It is to be noted that the above mentioned candidate has secured a percentage of 75% (SEVEN FIFTY PERCENT) OF MARKS IN EACH SUBJECT & 75 MARKS OUT OF 100 MARKS IN EACH SUBJECT.

Signature of the Candidate: _____

Signature of the Examinator: _____
Examinator
Board of Examination
for Health Inspector / Sanitary Inspector
Training Course
Department of Public Health & Preventive Medicine, Chennai-6

Serial No. : 000022
267

DEPARTMENT OF PUBLIC HEALTH AND PREVENTIVE MEDICINE
BOARD OF EXAMINATION
MULTIPURPOSE HEALTH WORKER (MALE)
HEALTH INSPECTOR / SANITARY INSPECTOR
TRAINING COURSE
CHENNAI - 600 006

CERTIFICATE IN MPHWM / SI / HI
THIS IS TO CERTIFY THAT

That **MUNUSAMY.C** Son of **Teina. CHINNATHANGAM.S** has been promoted in the Theory and Practice of Multi-Purpose Health Worker (Male) / Health Inspector / Sanitary Inspector course at **VIRUDHAI COLLEGE OF PARAMEDICAL SCIENCE, VIRUDHACHALAM, CUDDALORE** which is a recognized Training School of Multi-Purpose Health Worker (Male) / Health Inspector / Sanitary Inspector for a period of Two years from **11.12.2017 to 27.12.2019** including internship of Six months. He has passed the Final Examination held in **NOVEMBER 2019** and he has secured **FIRST CLASS**.

He is qualified to undertake the duties as Multi-Purpose Health Worker (Male) / Health Inspector / Sanitary Inspector.

His work has been **SATISFACTORY** and general conduct has been **GOOD**.

Signature of the Examinator: _____
Examinator
Board of Examination
for MPHWM / SI and
HI Training
Department of Public Health and
Preventive Medicine, Chennai-6

Signature of the Chairman: _____
Chairman
Board of Examination
for MPHWM / SI and
HI Training
Department of Public Health and
Preventive Medicine, Chennai-6



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STATEMENT OF PUBLIC HEALTH AND PREVENTIVE MEDICINE
BOARD OF EXAMINATION
MULTIPURPOSE HEALTH WORKER (MALE)
HEALTH INSPECTOR / SANITARY INSPECTOR TRAINING COURSE
MARK STATEMENT

Name of the candidate: KARUPPASAMY, K
Date of Birth: 18-05-1995
Date of the Course: From 06-12-2017 to 05-12-2019
Date & Year of Passing: NOVEMBER 2019
Name of the Institute: SANDRA INSTITUTE OF HEALTH SCIENCE, ERODE

It is to certify that the above mentioned candidate has appeared for the Multipurpose Health Worker (Male) Health Inspector / Sanitary Inspector Training Course Examination and obtained the following marks:

Name of the Subject	Max. Marks	Marks Obtained	RESULT
1st YEAR			
History, Physiology & Microbiology & Medical Terminology & Immunology	150	102	PASS
Environmental, Sanitation & Waste Management & Medical Sanitation Management & Nutrition & Nutrition Education	150	114	PASS
Introduction to Public Health & International Regulation of Health & Public Health Act & Public Health Problems in India (All special reference to Tamil Nadu)	150	116	PASS
2nd YEAR			
Principles of Communicable & Non-Communicable Diseases, Basic Public Health & Treatment of Major Infectious, First Aid, Emergency First Aid & First Aid	150	085	PASS
Principles of Vital Statistics, HIES, Measurement of Morbidity, HIES, HIES, FDI & Reproductive Behaviour	150	094	PASS
Statistical Methods, Descriptive Statistics, R & S, IPC & Correlation, C.I. & S.I. & S.I.	150	092	PASS
Total Marks	600	378	

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Board of Examination
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Centre and Director of
Public Health & Preventive
Medicine, Chennai - 600 006

BOARD OF EXAMINATION
MULTIPURPOSE HEALTH WORKER (MALE) /
HEALTH INSPECTOR / SANITARY INSPECTOR
STATE OF PUBLIC HEALTH AND PREVENTIVE MEDICINE, CHENNAI - 600 006
CERTIFICATE IN MPH(M) / SI / HI
THIS IS TO CERTIFY THAT

That, **KARUPPASAMY, K** Son of Thiru, **KASIRAJ, C** has been
enrolled in the Theory and Practice of Multi-Purpose Health Worker
(Male) / Health Inspector / Sanitary Inspector course at **SANDRA
INSTITUTE OF HEALTH SCIENCE, ERODE** which is a recognised
Training School of Multi-Purpose Health Worker (Male) / Health Inspector /
Sanitary Inspector for a period of Two years from **06.12.2017** to
05.12.2019 including a term of six months. He has passed the Final
Examination held in **NOVEMBER 2019** and he has secured
DISTINCTION CLASS.

He is qualified to undertake the duties as Multi-Purpose Health
Worker (Male) / Health Inspector / Sanitary Inspector.

His work has been **SATISFACTORY** and general conduct has been
GOOD.

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Director of Public Health and
Preventive Medicine, Chennai-6

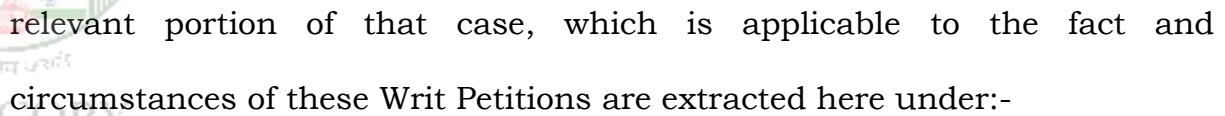


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20.7. More particularly, the certificate course and diploma for Multipurpose Health Worker (Male) course are also two different category of courses and they cannot be equated on par with each other. The syllabus and regulations issued by the Directorate of Public Health and Preventive Medicine and the course offered pertaining to the 2 years diploma course was inclusive of a 6 months “Part - III Field Training” carrying maximum of 1050 marks, that is, 150 marks for Field Training and by all means, the same cannot be equated with the certificate course, for which, marks were issued only for a total of 900. Hence, the impugned notification dated 21.07.2023, prescribing both certificate or diploma at par with each other, is arbitrary and illegal. In furtherance to the same, in view of the anomaly in the issuance of certificate and mark sheet as elaborated supra by the Directorate of Public Health and Preventive Medicine, the impugned Clause 7(b) in the procedure of selection is also liable to be quashed.

21. Question No.5:- **Whether the impugned G.O.Ms.No.299, Health and Family Welfare Department, dated 12.09.2023 is liable to be quashed?**

22.1. The Hon'ble Supreme Court of India in *suo moto* Writ Petition (Civil) No.3 of 2021 - IN RE: Distribution of Essential Supplies and Services during pandemic case, dealt with the unprecedented humanitarian crisis in the country, following the outbreak of the COVID-19 pandemic and the



H Recommendations for augmenting healthcare workforce

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66(iii) *It is unclear what measures are currently being taken to ensure that healthcare personnel can continue to serve others while not risking the health of their family members. We hope that the respective State Governments, with necessary assistance from the Central Government, can ensure this takes place; and*

.....

66(iv) *All these, we feel, would show these professionals that we do not show our appreciation in mere words, but also care for them.*

67. *The issues mentioned above are only symptomatic of the other broader issues that are being faced by healthcare professionals, who are instrumental in combating the pandemic. Hence, we hope their welfare is considered seriously by the Central and State Governments. Further, we would wish to use this order to place on record our sincerest appreciation for all the public healthcare professionals - not just limited to the doctors, but also nurses, hospital staff, ambulance drivers, sanitation workers and crematorium workers. It is through their dedicated efforts that the effect of COVID-19 pandemic is being currently tackled in India."*

22.2. No doubt, the petitioners in these petitions are also professionals, who had contributed relentlessly and selflessly in the Department of Health and Family Welfare as Health Inspector Grade II during the COVID- 19 pandemic. The petitioners were among the 2,215 Health Inspector Grade II engaged by the Director of Public Health and Preventive Medicine at a consolidated pay of Rs.20,000/- per month through outsourcing on temporary basis during COVID-19 pandemic. More particularly, they were



engaged to screen the passengers coming from airports, railway stations and bus stands for the symptoms of COVID-19 and to take care of them in quarantine facilities and also home quarantine across various districts in the State of Tamil Nadu. They were directed to personally contact the suspected corona infected persons at their place, take them to corona test sample collection centres, to arrange corona test sample and admit the corona infected persons in Government Hospitals/Corona Treatment Centres arranged at various places. That apart, they were also engaged to take corona samples from sample collection centres to corona sample testing laboratories and collect the corona test results from laboratories and hand over the test results to Government Hospitals/Corona Treatment Centres established at various places using their own two wheelers. In addition to that, they undertook collection of corona test samples at the corona wards, airport, railway stations, State Border Checkposts, District Border Checkposts using their own two wheelers. They also undertook corona sample tests at the hospitals and testing centres. They also maintained computerized corona vaccination records and arranged to issue online corona prevention vaccination certificates to the corona vaccinated public and attended duty at corona information control room/ward room. Last but not the least, they even accompanied the corona affected dead bodies for decent burials/cremations. On being engaged temporarily as Health Inspector Grade II from 28.04.2020, later they were recruited by the Deputy Director of Health Services as Health Inspector Grade II in the National



Health Mission, that is, the Makkalai Thedi Maruthuam Scheme for a meagre and lesser monthly salary of Rs.11,000/- on contract basis. When they were under a legitimate expectation that their services would be regularized, the impugned notification came to be issued by the Medical Recruitment Board inviting applications for the direct recruitment to the post of Health Inspector Grade II in Tamil Nadu Public Health Subordinate Service.

21.3.The Central Government in Clause 17 in the notification dated 03.05.2021, recommended to the State/UT Governments to consider giving “preference” in regular Government appointments of health professionals through their respective Public Service Commissions/other recruitment bodies for those health professionals whose services were utilized during the COVID-19 pandemic. The Government of Andhra Pradesh issued a Government Order in G.O.RT.No.211, Medical and Family Welfare (82) Department, dated 08.05.2021, offering weightage marks to those health professionals who are engaged during COVID-19 pandemic as follows:-

1. Weightage for experience of Government service including contract service.

2. Weightage based on COVID-19 duties at 5 marks for 6 months, 10 marks for a period of 1 year and 15 marks for 1 year and 6 months and so on.



21.4. Pursuant to the issuance of the impugned notification dated 11.07.2023, by the Medical Services Recruitment Board, all these Petitions came to be filed requiring the Government to prioritize their service in the recruitment to the post of Health Inspector Grade II notified vide the impugned notification dated 11.07.2023. Under such circumstances, the Government examined the issue of award of incentive marks for Health Inspector Grade II for their temporary service rendered during COVID-19 pandemic. Consequent to the issuance of amendment to the adhoc rules governing the post of Health Inspector Grade II in G.O.Ms.No.104, Health and Family Welfare (L1) Department, dated 28.06.2023, the Director of Public Health and Preventive Medicine had placed indent to the Medical Services Recruitment Board for recruitment to fill up the 1066 vacancies in the post of Health Inspector Grade II, in regular timescale of pay. Accordingly, after obtaining approval from the Government, the Medical Services Recruitment Board, issued the impugned notification in notification No.06/MRB/2023 dated 11.07.2023, inviting applications for direct recruitment to the post of Health Inspector Grade II in the Tamil Nadu Public Health Subordinate Service. However, in the said notification, no preference was given to the candidates who were engaged during the pandemic. In the wake of filing of various Writ Petitions before this Court and before the Principal Bench of this Court, the Government carefully considered G.O.Ms.No.278, Health and Family Welfare (B1) Department, dated 17.08.2023, by which orders have been issued awarding incentive



marks to the medical officers who have worked in the Government Medical Institutions during COVID-19 pandemic based on their service during pandemic period subject to certain conditions. That apart, the Director of Public Health and Preventive Medicine also took into consideration the guidelines of the Government of India/orders of the Hon'ble Supreme Court of India/court cases filed by the Health Inspectors, who have rendered services during COVID-19 pandemic period and after serious consideration had issued G.O.Ms.No.299, Health and Family Welfare (L1) Department, dated 12.09.2023 (impugned GO) for the purpose of giving incentive marks to the Health Inspector who have rendered services during COVID-19 as follows:-

Sl. No.	Criteria	Marks to be given
1.	For those who have worked in Government institutions during COVID-19 pandemic for a period of minimum of six months to one year continuously (6 to 12 months) (without break in service)	Two marks
2.	For those who have worked in Government institutions during COVID-19 pandemic for a period of above one year to one and half year continuously (12 months to 18 months) (without break in service)	Three marks
3.	For those who have worked in Government institutions during COVID-19 pandemic for a period of above one and half year to two years continuously (18 months to 24 months) (without break in service)	Four marks
4.	For those who have worked in Government institutions during COVID-19 pandemic for a period of above two years (over 24 months)	Five marks
5. The Director of Public Health and Preventive Medicine has further stated that the above marks may be awarded to the individuals concerned as a One Time measure only subject to the following conditions:-		
I. The individuals should have worked in Urban / rural / local body run Covid care centre / Covid health centre etc / Medical colleges / Government hospitals / Primary Health Centres / Health Sub Centres.		



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- ii. The individuals should produce experience certificate / duty certificate as per the format annexed to this order, issued by the Deputy Director of Health Services / concerned Officers duly indicating the period they have worked in that institution.
- iii. The incentive marks given above are applicable to all the eligible candidates as a one-time measure only.
- iv. The incentive marks will be eligible to only one recruitment which is being done after the COVID-19 Pandemic situation.
- v. This incentive marks are not eligible to the candidates for successive recruitments.

21.5. Grant of incentive marks to the Health Inspectors who rendered service during COVID-19 pandemic for the purpose of direct recruitment to the post of Health Inspector Grade II is exclusively the policy decision of the State and the Courts shall not ordinarily interfere with the same unless the said policy is manifestly arbitrary or discriminatory.

21.6. No doubt the Government's decision, in the matter of grant of incentive marks to the Health Inspectors who served during corona pandemic, in the direct recruitment to the post of Health Inspector Grade II is a benevolent initiative aimed at rewarding the relentless and selfless contribution of those Health Inspectors who served during the dreadful pandemic period risking their own lives. In view of the same, I find no merit in interfering with the impugned G.O.Ms.No.299, dated 12.09.2023 and I find it necessary to uphold the said Government Order.



22.Epilogue:-

22.1.The COVID-19 pandemic had caused a global health crisis resulting in the death of innumerable number of persons across the world. The entire Nation's health system was at peril and the State had to plunge into swift action resurrecting the health balance of the Country. As a result of which, the Central Government issued a number of guidelines to the State Governments and the Union Territories to provide a brisk health sector, which could safeguard the safety and livelihood of the common public. The Department of Health and Family Welfare of every state recruited by outsourcing umpteen number of employees in various levels, various cadres of Health Department in hundreds/thousands for swiftly managing the COVID-19 pandemic condition which prevailed during the pandemic times. The petitioners herein are the Health Inspectors who were engaged temporarily by the State during the pandemic period exclusively for the purpose of managing the pandemic struck State.

22.2.Having exploited their service all along during the pandemic period, later when the Department of Public Health and Preventive Medicine, consequent to the amendment of the adhoc rules governing the post of Health Inspector Grade II in G.O.Ms.No.104, Health and Family Welfare Department, dated 28.06.2023, had placed indent to the Medical Services Recruitment Board for recruitment to fill up 1066 vacancies in the post of Health Inspector Grade II in regular timescale of pay, without considering



the candidature of the various Health Inspectors Grade II who already contributed relentlessly and selflessly during pandemic period. Under such background, when the impugned notification No.6 of 2023 dated 11.07.2023, came to be notified by the Medical Services Recruitment Board, these Petitions came to be filed.

22.3.On careful consideration of the arguments made by the rival parties and all the documents placed on record, the impugned notification No.6/MRB/2023, dated 11.07.2023, inviting applications from male candidates for direct recruitment on temporary basis to the post of Health Inspector Grade II in Tamil Nadu Public Health Subordinate Services, came to be issued reflecting the State's policy of adhocism, in the matter of direct recruitment to the post of Health Inspector Grade II in the Tamil Nadu Public Health Subordinate Services.

22.4.In view of the categorical submission made by the learned Additional Advocate General Mr.Veera Kathiravan that, the petitioners were engaged during the COVID-19 pandemic only on contract basis, who cannot be equated as adhoc employees, the appointment orders issued by the Deputy Director of Health Services to the various petitioners were carefully perused by this Court. The same would also reveal the fact that, the petitioners were appointed as Health Inspector Grade II in contract basis through outsourcing from 31.03.2020, with the pay of Rs.20,000/- per



month. In such background, perhaps undermining the policy of adhocism adopted by the State in the matter of recruitment to the post of Health Inspector Grade II, I consciously refrain from interfering with the same. The Hon'ble Supreme Court of India in the case of **P.U.Joshi v. Accountant General** reported in **2003 2 SCC 632**, in a case dealing with the upgradation of post of Section Officers in the Accountant General Audit and Entitlements Department has held as follows:-

"10. We have carefully considered the submissions made on behalf of both parties. Questions relating to the constitution, pattern, nomenclature of posts, cadres, categories, their creation/abolition, prescription of qualifications and other conditions of service including avenues of promotions and criteria to be fulfilled for such promotions pertain to the field of policy is within the exclusive discretion and jurisdiction of the State, subject, of course, to the limitations or restrictions envisaged in the Constitution of India and it is not for the statutory tribunals, at any rate, to direct the Government to have a particular method of recruitment or eligibility criteria or avenues of promotion or impose itself by substituting its views for that of the State. Similarly, it is well open and within the competency of the State to change the Rules relating to a service and alter or amend and vary by addition / subtraction the qualifications, eligibility criteria and other conditions of service including avenues of promotion, from time to time, as the administrative exigencies may need or necessitate. Likewise, the State by appropriate Rules is entitled to amalgamate departments or bifurcate departments into more and constitute different categories of posts or cadres by undertaking further classification, bifurcation or amalgamation as well as reconstitute and restructure



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the pattern and cadres/ categories of service, as may be required from time to time by abolishing the existing cadres/posts and creating new cadres/posts. There is no right in any employee of the State to claim that Rules governing conditions of his service should be forever the same as the one when he entered service for all purposes and except for ensuring or safeguarding rights or benefits already earned, acquired or accrued at a particular point of time, a government servant has no right to challenge the authority of the State to amend, alter and bring into force new Rules relating to even an existing service.”

22.5.No doubt recruitments pertain to the field of Policy which is exclusively within the domain of the State. Though normally the Courts are slow in interfering with the policy decision of the State, if the policy decision and the action flowing from the said policy is inconsistent with the Constitution and the laws leading to manifest arbitrary and discriminatory abuse of power, in that case, the Courts cannot close the eyes and turn aside. The distribution of vacancies in Clause 2(II) of the impugned notification is explicitly inconsistent with the mandates of the “Tamil Nadu appointment on preferential basis in the services under the State of Persons Studied in Tamil medium, Act, 2010” and Section 26(5) of the Tamil Nadu Government Servants Conditions of Service Act, 2016. When the total sanctioned vacancy for the post of Health Inspector Grade II has been earmarked as 1066 in the distribution of vacancies, obviously 20 percent of the total vacancies, which would roughly come to 214 posts should have



been provided for PSTM reservation in true letter and spirit. Having not done the same for the sole reason of being inconsistent with the aforesaid Act, Clause 2(II) of the impugned notification is hereby quashed.

22.6.Clause 7(a) and 7(b), which provides for the procedure of selection has been notified in line with the mandates of G.O.Ms.No.401, Health and Family Welfare (C2) Department, dated 16.12.2014. Since the minimum educational qualification required for the post of paramedical and technical staff and the weightage of marks with respect to degree/diploma/certificate High Secondary Course and SSLC prescribed in the aforesaid G.O. has already been upheld by this Court in W.P.No.2466 of 2018 and W.P.(MD)No.2861 of 2018, I am afraid to interfere with the weightage of marks provided under Clause 7(a) under the head Procedure of Selection in the impugned notification. But the minimum educational qualification required for the post, which is prescribed as certificate or diploma with HSC qualification has to be necessarily interfered for the reasons elaborated in para no.20.7 supra.

22.7.It is pertinent to mention at this point that, the total marks awarded for the Multipurpose Health Worker (male)/Health Inspector/Sanitary Inspector Training Diploma course being 1050, the total marks awarded for Multipurpose Health Worker (male)/Health Inspector/Sanitary Inspector Training certificate course being 900, if the



weightage marks as prescribed under 7(a) of the impugned notification is evenly awarded by giving 50% weightage to the certificate/diploma course on treating both the courses on a single palette, the same would lead to discrimination and arbitrary selection in the recruitment of Health Inspector Grade II in view of the elaborate discussion made in **question no.4** supra with respect to the anomaly which prevailed/prevails in the grant of mark as far as the diploma/certificate courses are concerned.

22.8. In view of the same, quashing the minimum educational qualification required for the post without disturbing the weightage of marks, this Court hereby direct the Medical Services Recruitment Board to prescribe a rational method of selection without discriminating among the candidates, who are qualified in diploma as well as certificate courses. Clause 7(b) of the impugned notification itself would disclose the oddities, which prevail in the issuance of mark sheets to the various candidates, who have undergone Multipurpose Health Worker (male) course/Health Inspector/Sanitary Inspector course under the Department of Public Health and Preventive Medicine. If minimum pass marks for the course would be taken for those candidates for whom mark sheets have not been awarded, in such case the system of weightage of marks, which is being prescribed for the purpose of recruitment without any prescribed written examination or interview would clearly lead to a blatant discrimination among the candidates who were already issued with mark sheets and who were not



issued with mark sheets so far.

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22.9. In view of the same, the Chairman, Board of Examination for Multipurpose Health Worker (male)/Health Inspector/Sanitary Inspector Training course and the Director of Public Health and Preventive Medicine, Chennai – 6, is hereby *suo motu* impleaded as one of the respondents in all the Writ Petitions and such respondent is hereby directed to forthwith issue mark statements to all those candidates who have completed the 2 year Multipurpose Health Worker (male)/Health Inspector/Sanitary Inspector Training course within a period of 4 weeks from the date of receipt of copy of this order.

22.10. For the reasons elaborated supra, Clause 7(b) of the impugned notification is also hereby quashed. The Medical Services Recruitment Board is at liberty to issue fresh notification inviting applications for the direct recruitment for the post of Health Inspector Grade II in the Tamil Nadu Public Health Subordinate Service, undoing all the maladies pointed out by this Court in the impugned notification dated 11.07.2023.



23. Accordingly, the Writ Petitions in this batch are allowed, but W.P. (MD) No. 18411 of 2023 alone is dismissed. No Costs. Consequently, connected miscellaneous petitions are closed.

11.09.2024

NCC : Yes / No

Index : Yes / No

Internet : Yes

Mrn

Note: Registry is directed to effect the necessary amendments in the concerned cause titles in all the Writ Petitions.

To

1. The Principal Secretary to Government,
Government of Tamil Nadu,
Health Department
Secretariat,
Chennai- 600 008

2. The Director of Public Health and Preventive Medicines,
Chennai- 600 008.

3. The Deputy Director of Health Service / Executive Secretary, District
Health Society,
Thoothukudi District,
Thoothukudi.

4. The Member secretary,
Medical Services Recruitment Board (MRB),
DMS Building - 7th Floor,
359, Anna salai,
Teynampet,
Chennai - 600 006.

5. The Chairman,
Board of Examination for Multipurpose Health Worker (male)
/ Health Inspector / Sanitary Inspector Training course
and the Director of Public Health and Preventive Medicine,
Chennai - 6.



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L.VICTORIA GOWRI, J.

Mrn

**W.P.(MD)Nos.18405, 26269, 18375, 18407, 18411, 18494, 18551,
18595, 18598, 18630, 18716, 18858, 18882, 19976, 19998, 25121 of
2023 and 5272 of 2024**

11.09.2024