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W.P.No.30834 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.08.2025

CORAM :

THE HONOURABLE MR. MANINDRA MOHAN SHRIVASTAVA,
CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

W.P.No.30834 of 2025

D.Ghouse Basha

.. Petitioner

Vs.

1. Government of India
Rep. by its Secretary
Ministry of Health and Family Welfare
Nirman Bhavan
New Delhi 110 011.

2. State of Tamil Nadu
Rep. by its Additional Chief Secretary to Government
Health and Family Department
Secretariat
Chennai 600 009.

3. The Director of Public Health and
Preventive Medicine
No.359, Anna Salai
Chennai 600 006.

.. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India
seeking a writ of Declaration declaring the adhoc rules issued in



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G.O.Ms.No.1016, Health and Family Welfare Department, dated 08.07.1991 (as amended in G.O.Ms.No.643, Health and Family Welfare Department dated 10.06.1994 and G.O.Ms.No.8, Health and Family Welfare Department dated 03.01.1996) relating to the post of Cold Chain Officer in the Tamil Nadu Public Health Service are null and void insofar as it relates to prescription of other qualifications and is repugnant to the notification of the first respondent in No.12013/2/85/EPI(U) dated 21.11.1985 and to issue consequential directions to respondents 1 and 2 to consider the candidature of the petitioner for the post of Cold Chain Officer in Tamil Nadu Public Health Service by recruitment by transfer strictly in accordance with first respondent's notification dated 21.11.1985.

For Petitioner : Mr.M.Ravi

For Respondents : Ms.M.Sneha
Special Counsel for Health &
Family Welfare Department

ORDER

(Order of the Court was made by
the Hon'ble Chief Justice)

In this petition, under Article 226 of the Constitution of India, petitioner has sought following reliefs:

*"To declare the adhoc rules issued in
G.O.Ms.No.1016, Health and Family Welfare*



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Department, dated 08.07.1991 (as amended in G.O.Ms.No.643, Health and Family Welfare Department dated 10.06.1994 and G.O.Ms.No.8, Health and Family Welfare Department dated 03.01.1996) relating to the post of Cold Chain Officer in the Tamil Nadu Public Health Service are null and void insofar as it relates to prescription of other qualifications and is repugnant to the notification of the first respondent in No.12013/2/85/EPI(U) dated 21.11.1985 and to issue consequential directions to respondents 1 and 2 to consider the candidature of the petitioner for the post of Cold Chain Officer in Tamil Nadu Public Health Service by recruitment by transfer strictly in accordance with first respondent's notification dated 21.11.1985."

2. Learned counsel for petitioner argued in extenso and submitted that the present Rules laying down eligibility criteria in the matter of recruitment by way of transfer to the post of Cold Chain Officer, from amongst the holders of the post of Mechanic (Refrigeration) in the Tamil Nadu Public Health Subordinate Service, suffer from incompetence and are also manifestly arbitrary.



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It is contended before us that while for direct recruitment, qualification of Degree in Engineering with Refrigeration and Air Conditioning with experience of not less than one year in the installation and maintenance of refrigeration equipment or a Diploma in Engineering with Refrigeration and Air Conditioning as a subject, with minimum experience of five years in the installation and maintenance of refrigeration equipment has been prescribed as eligibility criteria, another set of eligibility qualification of a Diploma in Engineering with Refrigeration and Air Conditioning as a subject with experience for a period of not less than five years in the installation and maintenance of refrigeration equipment in any government department or ITI certificate in the trade of Refrigeration and Air Conditioning issued by the Government with experience for a period of not less than 15 years in the installation and maintenance of refrigeration equipment in any other government department, with requirement of having passed Account Test for Executive Officers, has been prescribed in case of recruitment by transfer from any other services. It has been contended that prescription of different qualification insofar as entry



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by way of transfer of those who are in service as Mechanic (Refrigeration), is not only discriminatory, but creates unreasonable classification and also allows consideration of candidature of those Mechanic (Refrigeration) who may not even be having a Degree or Diploma in Engineering with Refrigeration and Air Conditioning as a subject or having any such experience with that qualification.

3. Learned counsel for petitioner would submit that the post of Cold Chain Officer requires certain minimum degree of educational qualification in the subject and merely because someone is working as Mechanic (Refrigeration), may be for 15 long years, would not acquire suitability for appointment to a higher post of Cold Chain Officer. Therefore, non-insistence on qualification of any Degree or Diploma and only on the basis of an ITI qualification, which otherwise is an eligibility criteria for entry to the post of Mechanic (Refrigeration), coupled with 15 years of experience as such, is patently arbitrary and violative of Article 14 of the Constitution of India.



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4. The other submission of learned counsel for the petitioner is that though the Government of India had issued a circular way back in 1985 recommending that for the post of Cold Chain Officer, the minimum qualification should be a Degree in Mechanical or Refrigeration Engineering with a practical experience of one year in maintenance and operation of refrigeration equipment or Diploma in Refrigeration Engineering with at least six years practical experience in maintenance and operation of refrigeration equipment, it has not so far been incorporated in the State Rules, which is allowing Mechanic (Refrigeration) to be considered for appointment to the post of Cold Chain Officer by way of transfer even though they are not possessed of a Degree or Diploma with experience as desired under the Government of India vide Circular dated 21.11.1985.

5. Having heard learned counsel for petitioner and having gone through the Scheme of Rules prescribing eligibility qualification for appointment to the post of Cold Chain Officer, through different sources of recruitment, including direct recruitment, transfer from the department of Tamil Nadu Public Health Subordinate Service or

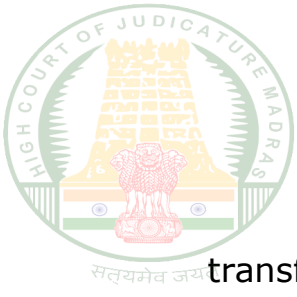


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any other Services, the Scheme of the Rule does not appear to be either manifestly arbitrary, violative of Article 14 of the Constitution of India, much less lacking competence.

6. The Scheme of the Rules, as reflected from the provisions contained therein, clearly shows that different qualifications have been prescribed depending upon the mode of entry. While qualification for appointment through direct recruitment from open market is different, qualification prescribed for appointment to the post of Cold Chain Officer by way of transfer from the Department of Tamil Nadu Public Health Subordinate Service or any other department are different. The post of Cold Chain Officer is one which is inherently linked with works relating to maintenance and operation of refrigeration or air conditioning systems. Though, it may be statutory policy to require minimum qualification for those who come from the open market that they should be possessed of a Degree or Diploma or qualification with certain amount of experience after having acquired such degree, the same may not be necessary in those cases where recruitment takes place by way of



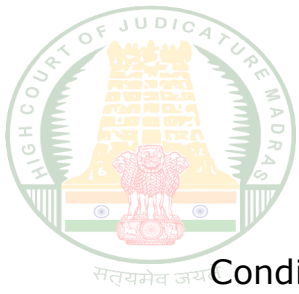
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transfer from amongst those who are already working in the field of maintenance of refrigeration and air conditioning systems and have acquired long experience of handling operation of refrigeration and air conditioning system.

7. Even in case of transfer, different qualification has been prescribed depending upon recruitment by way of transfer being made from Tamil Nadu Public Health Subordinate Service or from any other Department. The qualification in case of recruitment by way of transfer from Tamil Nadu Public Health Subordinate Service, requiring a person holding the post of Mechanic (Refrigeration) with 15 years of experience, coupled with the requirement of having passed the account test for Executive Officer, is essentially a part of the statutory scheme laying down criteria of eligibility depending upon a different source of entry.

8. In case of recruitment by way of transfer from any other service, a little different eligibility criteria has been prescribed. In such case, Diploma in Engineering with Refrigeration or Air



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Conditioning as subject, with minimum experience requirement or holding of or possession of ITI certificate in the trade of Refrigeration and Air conditioning with certain experience requirement has been laid down as eligibility criteria.

9. It is well settled that framing of statutory Rules governing terms and conditions of recruitment and conditions of service of persons serving the State by the Governor, in exercise of powers under the Proviso to Article 309 of Constitution of India, is legislative in nature, subject to Constitution and any Act that may be framed by the appropriate legislature. Therefore, challenge to statutory policy engrafted in the statutory Recruitment Rules is permissible only on limited grounds including those available in the matter of challenge to a primary legislation and not as if it is merely an administrative or statutory order by an authority. In *Indian Express Newspaper (Bombay) Private Limited v. Union of India*, [(1985) 1 SCC 641], it was held as under:

"75. A piece of subordinate legislation does not carry the same degree of immunity which is enjoyed by a statute passed by a competent Legislature.



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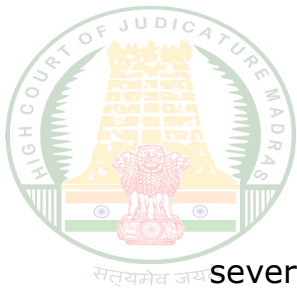


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Subordinate legislation may be questioned on any of the grounds on which plenary legislation is questioned. In addition it may also be questioned on the ground that it does not conform to the statute under which it is made. It may further be questioned on the ground that it is contrary to some other statute. That is because subordinate legislation must yield to plenary legislation. It may also be questioned on the ground that it is unreasonable, unreasonable not in the sense of not being reasonable, but in the sense that it is manifestly arbitrary.”

10. We find that eligibility criteria for appointment to the post of Cold Chain Officer, has been laid down depending upon the sources of entry. Merely because different eligibility criteria has been prescribed depending upon different sources for recruitment to the post of Cold Chain Officer, without anything more, the Rule cannot be termed as manifestly arbitrary.

11. In a Larger Bench judgment of the Hon'ble Supreme in the case of *Shayara Bano Vs. Union of India & Others*, (2017) 9 SCC 1,



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several earlier judgments read as being an absolute bar to the use of "arbitrariness" as a tool to strike down legislation under Article 14 of the Constitution of India were held no longer good law as below:

"99. However, in State of Bihar v. Bihar Distillery Ltd. (1997) 2 SCC 453, SCC at para 22, in State of M.P. v. Rakesh Kohli (2012) 6 SCC 312, SCC at paras 17 to 19, in Rajbala v. State of Haryana (2016) 2 SCC 445, SCC at paras 53 to 65 and in Binoy Viswam v. Union of India (2017) 7 SCC 59, SCC at paras 80 to 82, State of A.P. v. McDowell and Co. (1996) 3 SCC 709 was read as being an absolute bar to the use of "arbitrariness" as a tool to strike down legislation under Article 14. As has been noted by us earlier in this judgment, Mcdowell itself is per incuriam, not having noticed several judgments of Benches of equal or higher strength, its reasoning even otherwise being flawed. The judgments, following McDowell are, therefore, no longer good law."

12. The test of manifest arbitrariness as explained in the case of *Cellular Operators Association of India Vs. TRAI [(2016) 7 SCC 703]*, was noted as below:



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"100. To complete the picture, it is important to note that subordinate legislation can be struck down on the ground that it is arbitrary and, therefore, violative of Article 14 of the Constitution. In *Cellular Operators Assn. of India v. TRAI* (2016) 7 SCC 703, this Court referred to earlier precedents, and held:(SCC pp. 736-37, paras 42-44)

"Violation of fundamental rights

42. We have already seen that one of the tests for challenging the constitutionality of subordinate legislation is that subordinate legislation should not be manifestly arbitrary. Also, it is settled law that subordinate legislation can be challenged on any of the grounds available for challenge against plenary legislation. [See *Indian Express Newspapers (Bombay)(P) Ltd. v. Union of India* (1985) 1 SCC 641, SCC at p. 689, para 75.]

43. The test of "manifest arbitrariness" is well explained in two judgments of this Court. In *Khoday Distilleries Ltd. v. State of Karnataka* (1996) 10 SCC 304, this Court held: (SCC p. 314, para 13)

'13. It is next submitted before us that the amended Rules are arbitrary, unreasonable and cause undue hardship and, therefore, violate Article 14 of the Constitution. Although the protection of Article 19(1)(g) may not be available to the appellants, the Rules must, undoubtedly, satisfy the test of Article 14, which is a guarantee against arbitrary action. However, one must bear in mind that what is being challenged here under



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Article 14 is not executive action but delegated legislation. The tests of arbitrary action which apply to executive actions do not necessarily apply to delegated legislation. In order that delegated legislation can be struck down, such legislation must be manifestly arbitrary; a law which could not be reasonably expected to emanate from an authority delegated with the lawmaking power. In Indian Express Newspapers (Bombay) (P) Ltd. v. Union of India, this Court said that a piece of subordinate legislation does not carry the same degree of immunity which is enjoyed by a statute passed by a competent legislature. A subordinate legislation may be questioned under Article 14 on the ground that it is unreasonable; "unreasonable not in the sense of not being reasonable, but in the sense that it is manifestly arbitrary". Drawing a comparison between the law in England and in India, the Court further observed that in England the Judges would say, "Parliament never intended the authority to make such rules; they are unreasonable and ultra vires". In India, arbitrariness is not a separate ground since it will come within the embargo of Article 14 of the Constitution. But subordinate legislation must be so arbitrary that it could not be said to be in conformity with the statute or that it offends Article 14 of the Constitution.'

44. Also, in Sharma Transport v. State of A.P. (2002) 2 SCC 188, this Court held: (SCC pp. 203- 04, para 25)



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'25. ... The tests of arbitrary action applicable to executive action do not necessarily apply to delegated legislation. In order to strike down a delegated legislation as arbitrary it has to be established that there is manifest arbitrariness. In order to be described as arbitrary, it must be shown that it was not reasonable and manifestly arbitrary. The expression "arbitrarily" means: in an unreasonable manner, as fixed or done capriciously or at pleasure, without adequate determining principle, not founded in the nature of things, non-rational, not done or acting according to reason or judgment, depending on the will alone.'

13. It was further held that there is no rational distinction between plenary legislation and subordinate legislation when it comes to the ground of challenge under Article 14 of the Constitution of India. It was held thus:

"101. It will be noticed that a Constitution Bench of this Court in Indian Express Newspapers (Bombay) (P) Ltd. v. Union of India stated that it was settled law that subordinate legislation can be challenged on any of the grounds available for challenge against plenary legislation. This being the case, there is no rational distinction between the two types of legislation when it comes to this ground of challenge



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under Article 14. The test of manifest arbitrariness, therefore, as laid down in the aforesaid judgments would apply to invalidate legislation as well as subordinate legislation under Article 14. Manifest arbitrariness, therefore, must be something done by the legislature capriciously, irrationally and/or without adequate determining principle. Also, when something is done which is excessive and disproportionate, such legislation would be manifestly arbitrary. We are, therefore, of the view that arbitrariness in the sense of manifest arbitrariness as pointed out by us above would apply to negate legislation as well under Article 14."

14. In the celebrated Constitution Bench judgment in the case of *K.S. Puttaswamy (AADHAAR) (Retired) & Another Vs. Union of India & Another [(2019) 1 SCC 1]*, the scope of judicial review was explained as below:

"101. Judicial review means the Supremacy of law. It is the power of the court to review the actions of the Legislature, the Executive and the Judiciary itself and to scrutinise the validity of any law or action. It has emerged as one of the most effective instruments of protecting and preserving the cherished freedoms in



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a constitutional democracy and upholding principles such as separation of powers and rule of law. The Judiciary, through judicial review, prevents the decisions of other branches from impinging on the constitutional values. The fundamental nature of the Constitution is that of a limiting document, it curtails the powers of majoritarianism from hijacking the State. The power of review is the shield which is placed in the hands of the most judiciaries of constitutional democracies to enable the protection of the supreme document."

15. As to whether a legislative act could be invalidated and declared unconstitutional on the ground of arbitrariness, the observations made in the case of *State of A.P. Vs. Mcdowell & Co. [(1996) 3 SCC 709]* were noted wherein it was held that a legislation cannot be declared unconstitutional on the ground that it is arbitrary. The legal position in this regard was examined with reference to several earlier decisions of the Hon'ble Supreme Court as below:

"104. The issue whether law can be declared unconstitutional on the ground of arbitrariness has received the attention of this Court in a Constitution Bench judgment in Shayara Bano v. Union of India



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(2017) 9 SCC 1. *R.F. Nariman and U.U. Lalit, JJ.* discredited the ratio of the aforesaid judgments wherein the Court had held that a law cannot be declared unconstitutional on the ground that it is arbitrary. The Judges pointed out the larger Bench judgment in *K.R. Lakshmanan v. State of T.N.* (1996) 2 SCC 226 and *Maneka Gandhi v. Union of India* (1978) 1 SCC 248 where "manifest arbitrariness" is recognised as the third ground on which the legislative Act can be invalidated. Following discussion in this behalf is worthy of note: (*Shayara Bano case*, SCC pp.91-92 & 97, paras 87-88 & 99)

"87. The thread of reasonableness runs through the entire fundamental rights chapter. What is manifestly arbitrary is obviously unreasonable and being contrary to the rule of law, would violate Article 14. Further, there is an apparent contradiction in the three-Judge Bench decision in *State of A.P. v. McDowell and Co.* (1996) 3 SCC 709 when it is said that a constitutional challenge can succeed on the ground that a law is "disproportionate, excessive or unreasonable", yet such challenge would fail on the very ground of the law being "unreasonable, unnecessary or unwarranted".



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The arbitrariness doctrine when applied to legislation obviously would not involve the latter challenge but would only involve a law being disproportionate, excessive or otherwise being manifestly unreasonable. All the aforesaid grounds, therefore, do not seek to differentiate between State action in its various forms, all of which are interdicted if they fall foul of the fundamental rights guaranteed to persons and citizens in Part III of the Constitution.

88. We only need to point out that even after McDowell, this Court has in fact negated statutory law on the ground of it being arbitrary and therefore violative of Article 14 of the Constitution of India. In Malpe Vishwanath Acharya v. State of Maharashtra (1998) 2 SCC 1, this Court held that after passage of time, a law can become arbitrary, and, therefore, the freezing of rents at a 1940 market value under the Bombay Rent Act would be arbitrary and violative of Article 14 of the Constitution of India (see paras 8 to 15 and 31).

* * *

99. However, in State of Bihar v. Bihar Distillery Ltd. (1997) 2 SCC 453, SCC at para



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22; in *State of M.P. v. Rakesh Kohli* (2012) 6 [2022/RJJP/002783] (57 of 76) [CW-5789/2020] SCC 312, SCC at paras 17 to 19; in *Rajbala v. State of Haryana* (2016) 2 SCC 445, SCC at paras 53 to 65 and in *Binoy Viswam v. Union of India* (2017) 7 SCC 59, SCC at paras 80 to 82, *McDowell* was read as being an absolute bar to the use of "arbitrariness" as a tool to strike down legislation under Article 14. As has been noted by us earlier in this judgment, *McDowell* itself is per incuriam, not having noticed several judgments of Benches of equal or higher strength, its reasoning even otherwise being flawed. The judgments, following *McDowell* are, therefore, no longer good law."

It was then observed as below:

"106. We would like to record that we have proceeded on the premise that manifest arbitrariness also furnishes a ground on the basis on which a legislative enactment can be judicially reviewed. In the process, even the constitutional validity of Section 139-AA of the Income Tax Act, 1961 is given a fresh look on the touchstone of this norm."



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16. In the case of *Madras Bar Association Vs. Union of India & Another*, [Writ Petition (Civil) No.502 of 2021 decided on 14.07.2021], it was held as below:

"39. The Courts can strike down legislation either on the basis that it falls foul of federal distribution of powers or that it contravenes fundamental rights or other constitutional rights/provisions of the Constitution of India. Where there is challenge to the constitutional validity of a law enacted by the legislature, the Court must keep in view that there is always a presumption of constitutionality of an enactment and a clear transgression of constitutional principles must be shown. In State of Madhya Pradesh v. Rakesh Kohli & Anr. (2012) 6 SCC 312, this Court held that sans flagrant violation of the constitutional provisions, the law made by Parliament or a State legislature is not declared bad and legislative enactment can be struck down only on two grounds: (i) that the appropriate legislature does not have the competence to make the law, and (ii) that it takes away or abridges any of the fundamental rights enumerated in Part III of the Constitution or any other constitutional provisions. Subsequently, the Court has also recognised



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"manifest arbitrariness" as a ground under Article 14 on the basis of which a legislative enactment can be judicially reviewed."

17. In one of the recent decisions in the case of *Union of India (UOI) & Others Vs. Ganpati Dealcom Pvt. Ltd., [Civil Appeal No. 5783/2022 decided on 23.08.2022]*, the law with respect to testing the unconstitutionality of a statutory instrument was summarised as under:

"15.7 The law with respect to testing the unconstitutionality of a statutory instrument can be summarized as under:

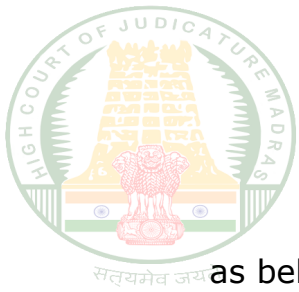
a. Constitutional Courts can test constitutionality of legislative instruments (statute and delegated legislations);

b. The Courts are empowered to test both on procedure as well as substantive nature of these instruments.

1. The test should be based on a combined reading of Articles 14, 19 and 21 of the Constitution."

2.

The development of doctrine of manifest arbitrariness was also noticed



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as below:

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"15.8 One of the offshoots of this test under Part III of the Constitution is the development of the doctrine of manifest arbitrariness. A doctrinal study of the development of this area may not be warranted herein. It is well traced in Shayara Bano v. Union of India, (2017) 9 SCC 1. We may only state that the development of jurisprudence has come full circle from an overly formalistic test of classification to include the test of manifest arbitrariness. A broad formulation of the test was noted in the aforesaid case as under:

"95. On a reading of this judgment in Natural Resources Allocation case [Natural Resources Allocation, In re, Special Reference No. 1 of 2012, (2012) 10 SCC 1], it is clear that this Court did not read McDowell [State of A.P. v. McDowell and Co., (1996) 3 SCC 709] as being an authority for the proposition that legislation can never be struck down as being arbitrary. Indeed the Court, after referring to all the earlier judgments, and Ajay Hasai [Ajay Hasia v. Khalid Mujib Sehravardi, (1981) 1 SCC 722] in particular, which stated that legislation can be struck down on the ground that it is "arbitrary" under Article 14, went on



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to conclude that "arbitrariness" when applied to legislation cannot be used loosely. Instead, it broad based the test, stating that if a constitutional infirmity is found, Article 14 will interdict such infirmity. And a constitutional infirmity is found in Article 14 itself whenever legislation is "manifestly arbitrary" i.e. when it is not fair, not reasonable, discriminatory, not transparent, capricious, biased, with favouritism or nepotism and not in pursuit of promotion of healthy competition and equitable treatment. Positively speaking, it should conform to norms which are rational, informed with reason and guided by public interest, etc."

15.9 In Joseph Shine v. Union of India, (2019) 3 SCC 39, this Court was concerned with the constitutionality of Section 497 of the IPC relating to the provision of adultery. While declaring the aforesaid provision as unconstitutional on the aspect of it being manifestly arbitrary, this Court reiterated the test as under:

"...The test of manifest arbitrariness, therefore, as laid down in the aforesaid judgments would apply to invalidate legislation as well as subordinate legislation Under Article



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14. Manifest arbitrariness, therefore, must be something done by the legislature capriciously, irrationally and/or without adequate determining principle. Also, when something is done which is excessive and disproportionate, such legislation would be manifestly arbitrary. We are, therefore, of the view that arbitrariness in the sense of manifest arbitrariness as pointed out by us above would apply to negate legislation as well Under Article 14."

15.10 In Hindustan Construction Co. Ltd. v Union of India, (2020) 17 SCC 324, this Court struck down Section 87 of The Arbitration Act on the ground of manifest arbitrariness as the Parliament chose to ignore the judgment of this Court, without removing the basis of the same or identifying a principle for militating against the same."

18. In the aforesaid authoritative pronouncement of the Hon'ble Supreme Court, it has been clearly held that legislation can be struck down on the ground that it is arbitrary under Article 14 of the Constitution of India whenever legislation is "manifestly arbitrary". In the aforesaid decision, the test of manifest arbitrariness, stated in the



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case of *Joseph Shine v. Union of India* [(2019) 3 SCC 39] was also relied upon.

It has been held that manifest arbitrariness must be something done by legislature capriciously, irrationally and/or without adequate determination of the principles. The view taken was, therefore, that the arbitrariness in the sense of manifest arbitrariness would apply to negate the legislation as well under Article 14 of the Constitution of India.

19. It is abundantly clear that since Mechanics (Refrigeration) are those who have been working in the department of Tamil Nadu Public Health Subordinate Service, 15 years of long experience itself has been treated as equivalent to various higher qualifications like Diploma or Degree. This equivalence drawn by the rule making authority, in exercise of its legislative power, cannot be interfered with except on limited grounds of judicial review. In *Maharashtra Public Service Commission v. Sandeep Shriram Warade* [(2019) 6 SCC 362], the Apex Court has held as under:

"9. The essential qualifications for appointment to a post are for the employer to decide. The employer



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may prescribe additional or desirable qualifications, including any grant of preference. It is the employer who is best suited to decide the requirements a candidate must possess according to the needs of the employer and the nature of work. The court cannot lay down the conditions of eligibility, much less can it delve into the issue with regard to desirable qualifications being on a par with the essential eligibility by an interpretive re-writing of the advertisement. Questions of equivalence will also fall outside the domain of judicial review. If the language of the advertisement and the rules are clear, the Court cannot sit in judgment over the same. If there is an ambiguity in the advertisement or it is contrary to any rules or law the matter has to go back to the appointing authority after appropriate orders, to proceed in accordance with law. In no case can the Court, in the garb of judicial review, sit in the chair of the appointing authority to decide what is best for the employer and interpret the conditions of the advertisement contrary to the plain language of the same.”

20. The other submission of learned counsel for petitioner that though the Central Government had sent letters suggesting

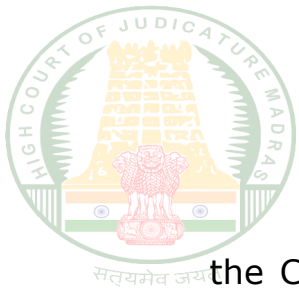


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minimum qualification of degree or diploma for the purpose of appointment to the post of Cold Chain Officer, Rules have not been accordingly amended insofar as recruitment by transfer of Mechanics (Refrigeration) in Tamil Nadu Public Health Subordinate Service does not impress us. This is for the reason that insofar as framing of Recruitment Rules for appointment to the post of Cold Chain Officer in the State cadre is essentially a field of legislation under the State List of VII Schedule to the Constitution of India. Under Article 309, subject to any legislative frame work in that regard by the appropriate Legislature, the Rules framed by the Governor, in exercise of powers under Proviso to that Article, would hold the field. Petitioner has failed to place before us any Central Act which occupies the field by providing eligibility criteria for appointment to the post of Cold Chain Officer. The petitioner has not placed any law which empowers the Central Government to prescribe such terms and conditions.

21. The power to frame Rules with regard to appointment to the post of Cold Chain Officer does not fall within the jurisdiction of



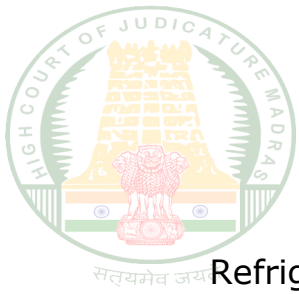
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the Central Government under any central legislation. The Circular issued by the Central Government is only advisory in nature. Merely because the eligibility criteria, as laid down in the State Rules, are not strictly in conformity with the guidelines issued by the Central Government, the power exercised by the Governor cannot be declared as lacking competence or in violation of any act of Parliament or the State legislature.

22. What should be qualification for a particular post is essentially a matter for determination of expert bodies and not for the Court. Unless it suffers from manifest arbitrariness or in case where a candidate is deprived of consideration on the ground that the candidates similarly situated on all aspects are being considered to the exclusion of the aggrieved person, interference would not be permissible by the Courts of law.

23. Present is not a case where petitioner has been deprived of consideration. His grievance is because many other Mechanics (Refrigeration) who are not possessed of Degree or Diploma in



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Refrigeration are being allowed to participate in the process of recruitment as a candidate from the Department of Tamil Nadu Public Health Subordinate Service.

24. Though learned counsel for petitioner, at the end of his submission, raised a grievance that there are many candidates who do not even possess the eligibility criteria laid down in the Rules are being considered, there is hardly any basis for the same in the petition nor any such person has been impleaded in the petition. In fact, petitioner has filed this petition challenging the validity of the Rule, only taking the enactment and operation of that Rules as cause of action, without there being any recruitment process initiated. If he has any grievance that in the past, any person who otherwise was not qualified in terms of the Rules framed has been recruited as Cold Chain Officer, resulting in exclusion of petitioner, even though he was meritorious, it will be open to petitioner to raise that issue.



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25. Petition is dismissed. There shall be no order as to costs.

(MANINDRA MOHAN SHRIVASTAVA, CJ) (SUNDER MOHAN,J)
20.08.2025

Index : Yes
Neutral Citation : Yes

kpl

To

1. The Secretary
Ministry of Health and Family Welfare
Nirman Bhavan
New Delhi 110 011.
2. The Additional Chief Secretary to Government
Health and Family Department
Secretariat
Chennai 600 009.
3. The Director of Public Health and
Preventive Medicine
No.359, Anna Salai
Chennai 600 006.



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THE HON'BLE CHIEF JUSTICE
AND
SUNDER MOHAN,J.

(kpl)

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20.08.2025