

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.07.2015

CORAM

**THE HONOURABLE MR. JUSTICE V.RAMASUBRAMANIAN
and
THE HONOURABLE MR. JUSTICE T.MATHIVANAN**

W.P.No.1871 of 2014
and
M.P.Nos.1 to 4 of 2014
and
M.P.No.1 of 2015

1.R.Ravichandra Gowthaman
2.P.K.Tamilvanan
3.A.Manoharan
4.V.Nagarajan
5.R.Arunkumar
6.M.Karuppuswamy
7.S.Shakthivel
8.V.S.Chozhan
9.A.Sriram
10.S.Mubarak Ali

... Petitioners

vs.

1.Tamil Nadu Generation and
Distribution Corporation Ltd.,
rep.by Chief Engineer/Personnel,
Administrative Branch,
800 (New No.144) Anna Salai,
Chennai-600 002

2.N.Kumaravel
3.D.G.Kalai Kumar
4.R.Sivakumar
5.S.Muthukumaravel

6.TNEB Engineers Sangam
rep.by its General Secretary,
793, Anna Salai,
Chennai-600 002

7.V.Gowri Saravanan

... Respondents

R3 to R7 impleaded as per order dated
08.11.2015 by NPVJ and RPSJ in
M.P.Nos.2 & 3/2014 in W.P.
No.1871/2014

Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus to direct the first respondent to promote the writ petitioners to the post of Junior Engineer Grade I in the respondent Corporation w.e.f. the date of their immediate junior was promoted and grant further promotions accordingly together with the monetary, pay fixation and other service benefits with arrears.

For Petitioners .. Mr.K.Srinivasa Murthy

For Respondents .. Mr.PH.Aravind Pandian,AAG
for Mrs.R.Varalakshmi for R1

Ms.D.Nagesaila
for R3 to R5

Mr.Yashodvardhan,Sr.counsel
for M/s.R.Sunil Kumar
for R6 and R7

ORDER

(Order of the Court was made by V.RAMASUBRAMANIAN,J.)

The petitioners, who have already been promoted to the post of Junior Engineer Grade-II, came up with this writ petition, seeking a mandamus to direct the respondents to grant them promotion to the next higher post of Junior Engineer (Electrical), Grade-II.

2. All promotions to the post of Junior Engineer Grade-I and II were stalled for the past few years on account of an amendment issued to the statutory Rules under B.P.No.17, dated 5.7.2003. In a batch of writ petitions, a learned Judge of this Court set aside the said amendment.

3. There were a batch of about 12 appeals arising out of the said common order of the learned Judge. Those writ appeals were disposed of by us, by a common judgement dated 22.6.2015. The operative portion of the judgement passed by us reads as follows:

*"27. Therefore, all the writ appeals
are disposed of to the following effect:*

*(i) We hold B.P.No.17 dated
05.7.2013 as valid and the order of the*

learned Judge declaring the said Board proceeding to be bad is set aside.

(ii) However, B.P.No.17 cannot take retrospective effect from 04.4.1987, which is the date on which B.P.No.33 was issued administratively. This is due to the fact that though B.P.No.33 dated 04.4.1987 was followed by other proceedings such as B.P.No.31 dated 12.01.1988, B.P.No.5 dated 26.1.1994, B.P.No.15 dated 05.3.2002 and B.P.No.61 dated 05.11.2002, no amendment to the Tamil Nadu Electricity Board Service Regulations were issued until the issue of B.P.No.17 dated 05.07.2003. Therefore, the attempt made in B.P.No.17 dated 05.07.2003 to give effect to the amendments issued therein from 04.4.1987, on the basis of the executive instructions, cannot be upheld. Hence, it is declared that B.P.No.17 dated 05.07.2003 will take only prospective effect from 05.7.2003.

(iii) In view of the fact that several persons came to be promoted either by orders of Court or by administrative orders, without reference to the prescription contained in the amendment issued on 05.07.2003, we do not

wish to upset the promotions already made, as it may lead to another set of litigations. Therefore, promotions so far made, without reference to the amendment dated 05.07.2003, shall not be reversed.

(iv) There are persons who are similarly placed as those who have got promotions de hors the amendment dated 05.07.2003, on account of the orders issued by this Court both before and after the amendments were struck down by the learned Judge. Since these persons are in no way different from those who have approached Court and obtained orders, their cases may also be considered in exercise of the power of relaxation conferred upon the Board under the Tamil Nadu Electricity Board Service Regulations. Once this is done, these persons who have not been promoted due to the amendment so far, will also become placed on par with those who have been promoted de hors amendment."

4. Though we are of the view that the said judgment would take care of the interest of the petitioners also, it is contended by Mr.K.Srinivasa Murthy, learned counsel for the petitioners that the writ

petitioners were already included in a panel for promotion to the post of Junior Engineer Grade-I and that everything came to a standstill after the writ petitions. Therefore, he seeks a positive direction to the respondents to promote the writ petitioners.

5. But there is no dispute about the fact that the judgement passed by us enures to the benefit of the petitioners as well as those who are similarly placed like the petitioners, some of whom would not even have gained promotion to the post of Junior Engineer Grade-II. If persons, who are identically placed like the petitioners, have not gained promotion for any reason not attributable to them, they will also now get promoted first to Grade-II. Only after this exercise is done, the seniority of the petitioners, vis-a-vis, persons who are identically placed, will be known for the purpose of further higher promotion.

6. Therefore, this writ petition is disposed of directing the first respondent to complete the exercise as ordered by us in the batch of writ appeals, on 22.6.2015; grant the benefits to persons who are entitled to the benefit and who are identically placed like the petitioners, first to the Junior Engineer Grade-II, prepare seniority list

and make further promotion to Junior Engineer Grade-I on the basis of such seniority. No costs. Connected miscellaneous petitions are closed.

(V.R.S.J.) (T.M.J.)
10.07.2015

msk

Index:Yes/No
Internet:Yes/No

To

1.Chief Engineer/Personnel,
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Distribution Corporation Ltd.,
Administrative Branch,
800 (New No.144) Anna Salai,
Chennai-600 002

**V.RAMASUBRAMANIAN, J.
and
T.MATHIVANAN,J.**

msk

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