

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 08.06.2017

CORAM

THE HONOURABLE Mr.JUSTICE T.RAJA

W.P.No.12818 of 2012 and
M.P.No.1 of 2012 in W.P.No.12818 of 2012
and
W.P.No.20504 of 2016 and
W.M.P.Nos.17587, 17588 and 20571 of 2016 in W.P.No.20504 of 2016
and
W.P.No.31736 of 2016 and
W.M.P.Nos.27551 to 27553 of 2016 in W.P.No.31736 of 2016
and
W.P.No.39448 of 2016
and
W.P.No.4454 of 2017 and
W.M.P.Nos.4661 and 4662 of 2017 in W.P.No.4454 of 2017

W.P.No.12818 of 2012

Bhaarithiya Electricity Employees Federation,
[Reg.990slm], [Affiliated with BMS in TN 100],
Rep. by its General Secretary,
R.Muralikrishnan,
177, 5th Main Road, Sri Iyyappa Nagar,
Virugambakkam Post, Chennai-92. ... Petitioner

Vs

1.The Chairman,
Tamil Nadu Electricity Board,
800, Anna Salai, Chennai-2.

2.The Chief Engineer/Personnel,
Tamil Nadu Electricity Board,
Administrative Branch,
800, Anna Salai, Chennai-2.

3.Tamil Nadu Generation and Distribution
Corporation Ltd. [TANGEDCO],
Rep. by its Managing Director,
144, Anna Salai, Chennai-2.

4.Tamil Nadu Transmission Corporation Ltd.,
[TANTRANSCO],
Rep. by its Managing Director,
144, Anna Salai, Chennai-2.

6.The Labour Officer-II,
Kuralakam, Parrys,
Chennai-1.

.. Respondents

Writ Petition filed under Article 226 of The Constitution of India seeking for issuance of Writ of Mandamus to direct the respondents 1 to 4 to not to alter the service conditions based upon the Memo No.051836/555/G.46/G.462/2010-6 dated 05.11.2010 pending conciliation in Industrial Dispute No.Aa/033/2012 dated 10.02.2012 on the file of the 6th respondent.

For Petitioner : Mr.V.Prakash, Senior Counsel
for Mr.K.Sudalai Kannu

For Respondents : Mr.Venkataramani, AAG
assisted by Mrs.R.Varalakshmi

W.P.No.20504 of 2016

Bhaarithiya Electricity Employees Federation,
[Reg.990slm], [Affiliated with BMS in TN 100],
Rep. by its State General Secretary,
D.V.Mani,
177, 5th Main Road, Sri Iyyappa Nagar,
Virugambakkam Post, Chennai-92. ... Petitioner

Vs

1.The Chairman cum Managing Director,
Tamil Nadu Generation and Distribution Corporation Ltd.,
144, Anna Salai, Chennai-2.

2.The Chief Engineer/Personal,
Tamil Nadu Generation and Distribution Corporation Ltd.,
144, Anna Salai, Chennai-2.

3.Tamil Nadu Transmission Corporation Ltd.,
[TANTRANSCO],
Rep. by its Managing Director,
144, Anna Salai, Chennai-2.

4.Central Organisation of Tamil Nadu,
Electricity Employees [COTEE]
27, Mosque Street, Chepauk, Chennai-5.

5.TNEB Thozhilalar Aykkiya Sangam,
[Reg.No.1056/90/Chennai],
Rep. by its General Secretary,
10/33, Balaji Nagar 1st Street,
Ground Floor, Royapettah, Chennai-14.

<https://hcservices.ecourts.gov.in/hcservices/>

6.Minvarliya Ananithu Paniyalar Poriyalar Sangam,
Rep. by its General Secretary,
32/16, 2nd Cross Street,

CIT Nagar, T.Nagar, Chennai-35.

7.K.Manikandan,
S/o.R.Kumaravel,
Line Inspector,
O/o.The Assistant Engineer,
[Operation & Maintenance],
Narasodhipatty Section,
Salem Electricity Distribution Circle, TANGEDCO,
Salem.

8.C.Senthil Kumar,
S/o.M.K.Chinnamuthu,
Line Inspector,
O/o.The Assistant Engineer,
[Operation & Maintenance],
Nethimedu Rural Section,
Salem Electricity Distribution Circle, TANGEDCO,
Salem.

9.P.Selvaraj,
S/o.Pichamuthu,
Line Inspector,
O/o.The Assistant Engineer,
[Operation & Maintenance],
Thammampatty Rural Section,
Salem Electricity Distribution Circle, TANGEDCO,
Salem.

10.P.Vetrikodi,
S/o.Marimuthu,
Commercial Assistant,
O/o.The Assistant Engineer,
[Operation & Maintenance],
Vellalakundam Section,
Salem Electricity Distribution Circle, TANGEDCO,
Salem.

11.J.Sureshbabu,
S/o.A.Jeyaraman,
Helper,
O/o.The Assistant Engineer,
[Operation & Maintenance],
Mallur Rural Section,
Salem Electricity Distribution Circle, TANGEDCO,
Salem.

.. Respondents

[R7 to R11 are impleaded vide order of this Court dated
06.02.2017
in W.M.P.No.38634/16 in W.P.No.20504/16]

Writ Petition filed under Article 226 of The Constitution
of India seeking for issuance of Writ of Certiorarified Mandamus
to call for the entire records pursuant to order in Memo
No.034374/414/G.46/G.462/2016-4 dated 14.06.2016 passed by the
2nd respondent quash the same and consequently direct the 2nd

respondent to implement the recommendations of the committee report dated 31.05.2014 and the RWE Committee Proposal as in Annexure-I of the letter No.009162/38/G.462/2014-12 dated 28.05.2015.

For Petitioner : Mr.V.Prakash, Senior Counsel
for Mr.K.Sudalai Kannu
For R1 to R3 : Mr.Venkataramani, AAG
assisted by Mrs.R.Varalakshmi
For R7 to R11 : Mr.G.Anand Kumar

W.P.No.31736 of 2016

1.N.Vadivelu
2.V.E.Sampath
3.S.Manigandan
4.S.Palanivel
5.P.Sabapathy
6.E.Natarajan
7.C.Rufus Stalin
8.S.Ezhilan
9.S.Sekar
10.P.Anandhakumar

... Petitioners

Vs

1.Tamil Nadu Generation and Distribution Corporation Ltd. [TANGEDCO],
Rep. by its Chairman and Managing Director,
144, Anna Salai, Chennai-2.

2.The Chief Engineer [Personnel],
Tamil Nadu Generation and Distribution Corporation Ltd.
144, Anna Salai, Chennai-2.

3.The Superintending Engineer,
TANGEDCO,
Chengalpattu Electricity Distribution Circle,
Chengalpattu-603 001.

4.Bhaarathiya Electricity Employees Federation,
[Reg.990/SLM], [Affiliated with BMS in TN 100],
Rep. by its State General Secretary,
D.V.Mani,
177, 5th Main Road, Sri Iyyappa Nagar,
Virugambakkam Post, Chennai-92.

.. Respondents

[R4 impleaded vide order of this Court dated 08.06.2017
in W.M.P.No.15658/17 in W.P.No.31736/16]

Writ Petition filed under Article 226 of The Constitution of India seeking for issuance of Writ of Certiorarified Mandamus to call for the records from the 2nd respondent relating to the Letter No.009162/38/G.46/G.462/2014-12 dated 28.05.2016 and quash the same insofar as it does not provide any safeguard to the Commercial Inspectors/Line Inspectors whose seniority has

been settled way back on 16.10.2015 as illegal, arbitrary, without jurisdiction and consequently direct the respondents 1 to 3 to proceed with the promotion process from the post of Commercial Inspector/Line Inspector to the post of Foreman Gr-I as per the memo dated 14.06.2016 bearing reference memo No.034374/414/G.46/ G.462/2016-4 strictly as per the seniority list dated 16.10.2015 published by the 3rd respondent.

For Petitioner : Mr.N.G.R.Prasad,
For Mr.Srinivasa Murthy

For Respondents : Mr.Venkataramani, AAG
assisted by Mrs.R.Varalakshmi

W.P.No.39448 of 2016

1.S.Muthuveeran
2.M.Sivakumar
3.K.S.Annadurai
4.K.S.Venkatesan

.. Petitioners

Vs

1.Tamil Nadu Generation and Distribution
Corporation Ltd. [TANGEDCO],
Rep. by its Chairman,
144, Anna Salai, Chennai-2.

2.The Chief Engineer - Personnel,
Tamil Nadu Generation & Distribution Corporation Ltd.
144, Anna Salai, Chennai-2.

3.The Superintending Engineer,
TANGEDCO,
Chennai West Distribution Circle,
Anna Nagar, Chennai-40.

.. Respondents

Writ Petition filed under Article 226 of The Constitution of India seeking for issuance of Writ of Mandamus to direct the respondents 1 to 3 to consider the representation dated 21.10.2016 made by the petitioners to the 3rd respondent and grant them promotion to the post of Commercial Inspector as per the existing rules and seniority with all attendant service benefits.

For Petitioner : Mr.C.K.Chandrasekhar
For Respondents : Mr.Venkataramani, AAG
assisted by Mrs.R.Varalakshmi

W.P.No.4454 of 2017

1.S.Palanivel
2.N.Vadivelu

.. Petitioners

<https://hcservices.ecourts.gov.in/hcservices/>

Vs

1.Tamil Nadu Generation & Distribution Corporation Ltd.,
Rep. by its Chairman cum Managing Director,
144, Anna Salai, Chennai-2.

2.The Chief Engineer/Personnel,
Tamil Nadu Generation & Distribution Corporation Ltd.
144, Anna Salai, Chennai-2.

3.The Superintending Engineer,
TANGEDCO,
Chengalpattu Electricity Distribution Circle,
Chengalpattu-603 001.

4.Tamil Nadu National Electricity Workers Federation,
Rep. by its General Secretary,
Regn. No.1544/MDS,
52, Dr.Subbarayan Road,Salem 636 001.

5.R.Elango,
Helper,
O/o.The Assistant Engineer [O&M],
Meyyanur,
Salem Electricity Distribution Circle,
TANGEDCO, Meyyanur,
Salem District-636 006.

[R4 & R5 impleaded vide order of this Court dated 08.06.2017
in W.M.P.No.10218/17 in W.P.No.4454/17]

6.Bhaarithiya Electricity Employees Federation,
[Reg.990/SLM], [Affiliated with BMS in TN 100],
Rep. by its State General Secretary,
D.V.Mani,
177, 5th Main Road, Sri Iyyappa Nagar,
Virugambakkam Post, Chennai-92.

.. Respondents

[R6 impleaded vide order of this Court dated 08.06.2017
in W.M.P.No.15659/17 in W.P.No.4454/17]

Writ Petition filed under Article 226 of The Constitution of India seeking for issuance of Writ of Certiorarified Mandamus after calling for the records from the 2nd respondent relating to the proceedings [Per.][FB] TANGEDCO proceedings No.2 [Administrative Branch] dated 01.02.2017 and all consequential proceedings and quash the same as illegal, arbitrary, without jurisdiction, detrimental to the interest of the petitioners and consequently direct respondents 1 to 3 to proceed with the promotion process from the post of Commercial Inspector/Line Inspector to the post of Foreman Grade-I.

For Petitioner : Mr.N.G.R.Prasad, Senior Counsel
for Mr.K.Srinivasamurthy

For Respondents : Mr.Venkataramani, AAG
assisted by Mrs.R.Varalakshmi

C O M M O N O R D E R

The above Writ Petitions revolving around a common question, namely,

"as to how the vacancies available for the promotional post of Foreman Gr-I can be filled up with two rival set of employees in the Tamil Nadu Electricity Board, i.e. Line Inspectors and Commercial Inspectors, both of whom come from the Helper post," are disposed of by this common order.

2.Considered the rival submissions advanced on either side.

3.It is seen that, in order to sort out the anomaly pertaining to the question as to how the vacancies in the promotional post of Foreman Gr-I can be filled up between Line Inspectors and Commercial Inspectors, a Committee was constituted and a Report was also filed by the said Committee. In the said report, among other things, a crucial recommendation has been made to the effect that an experience of five years may be insisted for the incumbents in the post of Commercial Inspector/Line Inspector, by amending the Service Regulation, so that, there may be uniform opportunity for all the categories. But till date, admittedly, from the date of submission of the report on 31.05.2015, the said amendment has not been effected in TNEB Service Regulations. In the meanwhile, when subsequent Circulars have been issued for the purpose of filling up the vacancies for the post of Foreman Gr-I, challenging those Circulars, several Writ Petitions have been filed.

4.In these circumstances, it is not known as to why the Electricity Board has not proceeded with as per Regulation 98 of TNEB Service Regulations, which provides under sub-clause [1][a] that no employee can be found eligible for promotion to a higher post unless he is an approved probationer in the category from which promotion to the higher post is admissible. Further, the next clause namely, Regulation 98[1][b][i] of the Regulations makes it clear that promotion in all cases shall be made on grounds of merit and ability, seniority being considered where merit and ability are approximately equal. Accordingly, in the matter of promotion to the higher post, namely, the post of Foreman Gr-I, which is sought to be filled in under Regulation 98 of TNEB Service Regulations, without waiting further for amendment of the Regulation, for the available promotion vacancies, the respondent/Electricity Board is directed to promote all the eligible employees from both sides, namely, from Commercial Inspector and Line Inspector to the higher post, namely, Foreman Gr-I, on the basis of the Committee's Report, from the list prepared, i.e. the approved probationer list in the category of Commercial Inspector and Line Inspector. Since the Regulation is quite clear that promotions are to be given on the basis of merit and ability, it is needless to mention that the respondent/Board, while taking up the promotion process, shall consider any higher qualification possessed by the incumbents by way of acquiring Diploma/B.E. in the subject concerned.

5.It goes without saying that, after carrying out amendment to the Regulation, the respondent/Board shall scrupulously adhere to the criterion/norms mentioned in the amended Service Regulations without reference to Regulation 98 of TNEB Service Regulations. The respondent/Electricity Board shall complete the exercise by amending the Service Regulations within a period of six months from the date of receipt of a copy of this order.

With the above direction, these Writ Petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

gya

To

1.The Chairman,
Tamil Nadu Electricity Board,
800, Anna Salai, Chennai-2.

2.The Chief Engineer/Personnel,
Tamil Nadu Electricity Board,
Administrative Branch,
800, Anna Salai, Chennai-2.

3.The Managing Director,
Tamil Nadu Generation and Distribution Corporation Ltd.
[TANGEDCO],
144, Anna Salai, Chennai-2.

4.The Managing Director,
Tamil Nadu Transmission Corporation Ltd. [TANTRANSCO],
144, Anna Salai, Chennai-2.

5.The Commissioner of Labour,
DMS Buildings,
Teynampet, Chennai.

6.The Labour Officer-II,
Kuralakam, Parrys, Chennai-1.

7.The Chief Engineer [Personnel],
Tamil Nadu Generation and Distribution Corporation Ltd.
[TANGEDCO],
144, Anna Salai, Chennai-2.

8.The Superintending Engineer,
TANGEDCO,

<https://hcservices.ecourts.gov.in/hcservices/>
Chengalpattu Electricity Distribution Circle,
Chengalpattu-603 001.

9.The Electricity Employees (COTEE),

Central Organisation of Tamil Nadu,
No.27, Mosque Street, Chepauk, chennai-5

10.The State General Secretary,
Bhaarathiya Electricity Employees Federation,
177, 5th Main Road, Sri Iyyappa Nagar,
Virugambakkam Post, Chennai-92.

11.The Chairman cum Managing Director,
Tamil Nadu Generation and Distribution
Corporation Ltd. [TANGEDCO],
144, Anna Salai, Chennai-2.

12. The Superintending Engineer,
TANGEDCO,
Chennai West Distribution Circle,
Anna Nagar, Chennai-40.

13.The Chief Engineer - Personnel,
Tamil Nadu Generation & Distribution Corporation Ltd.
144, Anna Salai, Chennai-2.

14The General Secretary,
Tamil Nadu National Electricity Workers Federation,
No.52, Dr.Subbarayan Road, Salem 636 001.

+1cc to Mr.Row and Reddy, Advocat SR.41485

W.P.No.12818 of 2012,
W.P.No.20504, 31736 & 39448 of 2016
and W.P.No.4454 of 2017

RV(CO)
GN(29/11/2017)

सत्यमेव जयते

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