



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.12.2020

CORAM:

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**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM**

W.P.(MD).No.5861 of 2013  
and M.P(MD).No.1 of 2013

B.Rathina Sankar

... Petitioner

-Vs-

1. The Chairman and Managing Director,  
TANGEDCO, 144, Anna Salai,  
Chennai 600 002.

2. The Secretary,  
TANGEDCO,  
144, Anna Salai,  
Chennai 600 002.

3. The Chief Engineer (Personnel)  
TANGEDCO  
144, Anna Salai,  
Chennai 600 002.

4. P.Pandian

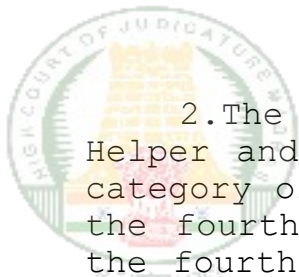
... Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the promotion list prepared by the third respondent for the post of Junior Engineer, Grade II Electrical, in his proceedings dated 15.11.2012 in 077 411/623/G55/G/552/2011.1, quash the Serial No.280 in so far as the name of the fourth respondent Pandian is concerned, and consequently directing the respondents 1 to 3 to promote the petitioner to the post of Junior Engineer, Grade II Electrical as per Original Seniority list dated 20.04.1987 in Memo DE/CMR/A1/F.BR/D.1108/87.

For Petitioner : Mr.C.Jegannathan  
For Respondent : Mr.T.Sakthikumaran (for R1 to R3)

**ORDER**

The relief sought for in the present writ petition is to quash the order, dated 15.11.2012 passed by the third respondent.



2.The petitioner was provisionally selected for the post of Helper and thereafter, duly appointed under the respondents in the category of Helper. The grievance of the writ petitioner is that, the fourth respondent was also appointed and his Sl.No.10. Thus, the fourth respondent is the junior to the writ petitioner for all purpose as per the roster followed by the respondents at the time of appointment. The petitioner was promoted to the post of Commercial Assistant in proceeding dated 26.04.1991, wherein the name of the petitioner was found at Sl.No.43 and the fourth respondent was not promoted on the said date and his name was also not found place in the panel prepared by the Superintending Engineer, Madurai. The petitioner based on some reliable information has stated that, the fourth respondent would have appointed as Commercial Assistant, subsequently. Based on these facts, the petitioner claims that he is entitled for promotion and internal selection list issued by transfer method in proceeding, dated 15.11.2012, which is sought to be quashed. The impugned list is recruitment to class-III services by way of internal selection through the method of transfer. It is not promotion. The order impugned categorically states that 472 number of RWE employees are selected to the post of Junior Engineer/Electrical II Grade (Non-Diploma holders) in the scale of pay of Rs.9600-34800+4300 Grade Pay by transfer method under the provision in Note 2 against category 3 under Division I Class III in Annexure-I 92 of TNEB Regulation. It is further stated that the individuals included in the list possess the required qualification to hold the post of Junior Engineer/Electrical II Grade and their pay can be fixed under Regulation 33 (b) of the TNEB Service Regulation. Therefore, the impugned order is not a promotion and this is a selection by way of appointment through transfer of service. Appointment by transfer of services by way of selection method can not be compared with the regular promotion under the rules.

3.The claim of the writ petitioner is that the fourth respondent is the junior to him from the date of his appointment. However, the respondents disputed the said contentions by stating that as per the Regulation 92(e) of the TNEB Service Regulation, the principle of rule of reservation will also be applicable for this method of appointment. Though all employees in RWE, who possess the required qualification of SSLC pass or fail and in six years period of service experience, are eligible for consideration, as decided, the selection is considered from among the RWE employees working as Line Inspector or in equivalent post in the higher category. It is contended that the writ petitioner was not within the zone of selection. The said facts are narrated in clear terms in Para Nos.11 and 12 of the counter affidavit filed by the respondents, which reads as under:

*"11.As regards the averments made in para 11 of the affidavit of the petitioner it is submitted that, the Superintending Engineer/Theni EDC has recommended*



Thiru.B.Rathina Sankar and Thiru.P.Pandian for the post of Junior Engineer/Electrical II Grade and the selection cut-off for hte employees belong to MBC/DNC community is 31.12.1999 for hte post of Junior Engineer/Electrical II Grade. As per the report of Superintending Engineer/Theni EDC Thiru.P.Pandian belongs to MBC?DNC community and joined as Commercial Inspector (i.e) equivalent to Line Inspector cadre on 18.11.1999. whereas the petitioner belongs to Backward (BC) Community and has joined in service on 17.11.1999. however, Thiru.P.Pandian was selected for the post of Junior Engineer/Electrical II Grade by Internal Selection, since he had reached the zone of selection on merit in his MBC/DNC community and the petitioner was not selected since he had not reached the zone of selection in Backward community.

The details of the petitioner and the fourth respondent Thiru.P.Pandian are stated below:

| SL.No | Name             | Community | Date of Joining in the post of LI/CI or equivalent post | The cut-off date for the post LI/CI or equivalent post for selection |
|-------|------------------|-----------|---------------------------------------------------------|----------------------------------------------------------------------|
| 1.    | B.Rathina Sankar | BCO       | 17.11.1999                                              | 25.05.1998                                                           |
| 2.    | P.Pandian        | MBC/DNC   | 18.11.1999                                              | 31.12.1999                                                           |

12.The selection cut-off date for the employees belong to Backward Community is 25.05.1998 for the post of Junior Engineer/Electrical II Grade. The petitioner Thiru.B.Rathina Sankar belongs to Backward Community and joined as Commercial Inspector only on 17.11.1999 as per report of the SE/Theni EDC. The petitioner has not reached the zone of selection on merits. Hence, the petitioner Thiru.B.Rathina Sankar was not considered for the post of Junior Engineer/Electrical II Grade by Internal Selection."

4.In view of the fact that the petitioner was not within the zone of consideration for selection the claims now set out in the writ petition deserves no merit for consideration and accordingly, the case of the writ petitioner is to be considered strictly in accordance with the Rules and whenever, he falls within the zone of consideration.



5.With these observations, the Writ Petition stands dismissed.  
No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (T&P)

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Sub Assistant Registrar(CS)

*rmk*

+1cc to M/s.Veera Associates, Advocate, SR.No.26376.

+1cc to T.Sakthi Kumaran, Advocate, SR.No.26447.

**W.P. (MD) .No.5861 of 2013**

AC (CO)

CS(19.01.2021) 4P 3C