

**IN THE HIGH COURT OF JUDICATURE AT MADRAS****DATED : 11.12.2023****CORAM****THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR****W.P.No.5182 of 2012**

V.Kannan Unni

.. Petitioner

Vs.

1. The Chairman,
TNEB (TANGEDCO),
Anna Salai, Chennai - 600 002.
2. The Chief Engineer (Personal),
TNEB, (TANGEDCO),
No.144, Anna Salai, Chennai - 600 002.
3. The Senior Personnel Officer (Recruitment),
TANGEDCO, No.144, Anna Salai,
Chennai - 600 002.
4. V.Meenakshiamma, Seniority No.1687
Deputy Financial Controller,
5. R.Sivakumar, Seniority No.1688
DFC
6. Parvathy Swaminathan,
Seniority No.1693,
DFC,



7. V.Sekar, Seniority No.1697,
DFC,
(Impleaded vide order of Court
dated 11.12.2023 in
WMP.No.20007 of 2020
by MSKJ)

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Certiorarified Mandamus calling for the entire records pursuant to the orders of the 2nd respondent in orders / letters in Lr.No.012028/G302/2011-61 dated 19.12.2011 and Lr.No.012028/G30/G302/2011-84 dated 04.02.2012 and quash all the same consequently direct the respondents to call for a fresh panel as per the B.P.MS.CH.No.212 dated 12.06.1987 based on the crucial date as 25.03.2011 and thereby refix the petitioner's seniority.

For Petitioner : Mr.A.Deivasigamani for
Mr.G.B.Saravanhavan

For Respondent
Nos.1 to 3 : Mr.K.Rajkumar

ORDER

This writ petition has been filed questioning various proceedings issued by the second respondent promoting the juniors of the petitioner to the post of Assistant Accounts Officer and to direct the respondents to call for a fresh



panel as per the B.P.Ms, (Ch) No.212 dated 12.06.1987 based on the crucial date as 25.03.2011 and thereby refix the petitioner's seniority.

2. Heard Mr.A.Deivasigamani, for Mr.G.B.Saravanbhavan, learned counsel for the petitioner and Mr.K.Rajkumar, learned counsel for the respondents.

3. The case of the petitioner is that the crucial date of preparation of the panel is 25th of March every year. Instead, the respondents initiated the process for promotion to the post of Assistant Accounts Officer only on 28.08.2010 through letter No. 077305/G301/2010-3 and the penal was approved through proceedings on 08.02.2011. However, the case of the petitioner was not considered for promotion to the post of Assistant Accounts officer though he acquired the qualification on 30.12.2010. It is further case of the petitioner that the respondents are under obligation to prepare a fresh penal for promotion including for the year 2011 but they have not done so thereby juniors of the petitioners were promoted. It is also contended that, the respondents instead of drawing a fresh panel, dragged the finalization of earlier panel.



4. This Court has thoroughly considered the submissions made by the learned counsel for the petitioner and also perused the board proceedings B.P.Ms,(Ch)No.212 dated 12.06.1987, the letter dated 28.08.2010 and the proceedings dated 08.02.2011. No doubt in terms of B.P.Ms,(Ch)No.212 dated 12.06.1987, the penal is required prepared in the month of March every year. But, it is not mandatory that the penal should be finalized and promotion should be effected in the month of March every year.

5. In the instant case, the process of preparation of panel commenced on 28.08.2010, by which date, the petitioner was not qualified to the post of Assistant Accounts Officer, and the panel was approved on 08.02.2011. The petitioner acquired the requisite qualification only on 30.12.2010. Though the results were declared later, the petitioner was treated as qualified with effect from the date of last examination. The cut off date for preparation of panel for the year 2010 was 25.03.2010. Admittedly, the petitioner was not having the requisite qualification as on the relevant date. In the absence of having the requisite qualification as on the crucial date, the claim made by the petitioner that his juniors were promoted though he was qualified will not stand to legal scrutiny.



6. Admittedly and as is evident from para 12 of affidavit in W.M.P.No.20007 of 2020 the respondents have prepared a fresh panel vide letter No.010360/G.30/G301/2012-3 dated 14.12.2012 based on the crucial date and those who have passed Accountancy Higher Grade within period 25.03.2011 to 25.03.2013. The same is subject matter of the writ petition in W.P.No.27950 of 2014 filed by the petitioner, who sought for refixation of seniority, promotion with retrospective effect. If at all the petitioner is entitled for such relief he can pursue the said writ petition and the same cannot be the subject matter of this writ petition. In the light of the above this Court does not find any merit in main writ petition.

7. Accordingly, the Writ Petition is dismissed granting liberty to the petitioner to pursue his remedy in Writ Petition No.27950 of 2014. No costs.

11.12.2023
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Office to note:-

Office is directed to carry out necessary amendments
before issuing order copy.

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Index : Yes/No

Speaking order / Non Speaking order



To

WEB COPY

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MUMMINENI SUDHEER KUMAR, J.

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