



WP.Nos.44605 to 44608/2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.08.2023

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

WP.Nos.44605 to 44608/2016

K.Britto

... Petitioner in
WP.No.44605/2016

V.Natesan

... Petitioner in
WP.No.44606/2016

Vethapuri

... Petitioner in
WP.No.44607/2016

K.Nagarajan

... Petitioner in
WP.No.44608/2016

Versus

1.The Chairman

Tamil Nadu Generation and
Distribution Corporation Ltd
144, Anna Salai, Chennai 600 002.

2.The Chief Engineer/Personnel

Tamil Nadu Generation and
Distribution Corporation Ltd
144, Anna Salai, Chennai 600 002.

... RR 1 & 2 in all
Writ Petitions



WP.Nos.44605 to 44608/2016

3.The Superintending Engineer
Tamil Nadu Generation and
Distribution Corporation Ltd
Trichy Metro, Trichy.

... R3 in WP.No.44605/2016

4.The Superintending Engineer
Tamil Nadu Generation and
Distribution Corporation Ltd
Mettur Electricity Distribution Circle
Mettur.

... R3 in WP.No.44606/2016

5.The Superintending Engineer
Tamil Nadu Generation and
Distribution Corporation Ltd
Tiruvannamalai Electricity Distribution Circle
Tiruvannamalai.

... R3 in WP.No.44607/2016

6.The Superintending Engineer
Tamil Nadu Generation and
Distribution Corporation Ltd
Krishnagiri Electricity Distribution Circle
Krishnagiri [P.O] District.

... R3 in WP.No.44608/2016

Common Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records relating to the proceedings of the 2nd respondent made in Letter Nos.084993/699/G30/G301/2015-4, 084993/699/G30/G301/2015-3, 084993/699/G30/G301/2015-2 and 084993/667/G30/G301/2015-2 dated 02.05.2016 and quash the same and consequently directing the respondents to grant notional promotion to the petitioner to the post of Assistant Accounts Officer at par with their junior.



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For Petitioners in all
the Writ Petitions : Mr.R.Jaikumar

For Respondents in all
the Writ Petitions : Mr. K.Rajkumar
Standing Counsel

COMMON ORDER

- (1) All the four petitioners stand on the same footing and they claim parity seeking notional promotion to be granted as Assistant Accounts Officer on par with their junior P.Chellan and since their request for the same was rejected, have filed the present writ petitions independently in the nature of a certiorarified mandamus seeking interference with an order of the 2nd respondent, Chief Engineer / Personnel, TANGEDCO at Chennai, who had rejected granting notional promotion to the petitioners herein.
- (2) Since arguments were also advanced in common and since the respondents have also taken the same stand to refute the claim of the petitioners herein, a common order is passed.



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(3) Let me take as an illustration, the facts in WP.No.44605/2016

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[K.Britto Vs. The Chairman, TANGEDCO, Chennai and 2 Others].

The petitioner in WP.No.44605/2016 had joined Tamil Nadu Electricity Board as temporary Casual Labour on 26.11.1970 and was regularised as Supernumerary Helper with effect from 01.01.1977. He was then promoted to successive positions and finally, as Accounts Supervisor on 06.01.2007. The other petitioners in the other three writ petitions have also been similarly promoted on various dates as Accounts Supervisors. All the petitioners were eligible to be promoted as Assistant Accounts Officers. They had also qualified in Accountancy Senior Test which was a pre-requisite to the post of Assistant Accounts Officer. A panel had been prepared for promotion to the post of Assistant Accounts Officer and that particular panel has been filed as a document before this Court and a perusal of the same shows that the petitioner in WP.No.44605/2016 – K.Britto was in Serial No.57 with Seniority No.867. The petitioner V.Natesan in WP.No.44606/2016 was in Serial No.90 with Seniority No.932. The petitioner Vethapuri in WP.No.44607/2016 was in



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Serial No.108 with Seniority No.986 and the petitioner K.Nagarajan, in WP.No.44608/2016 was in Serial No.177 with Seniority No.1186.

- (4) There is no dispute raised about this particular panel prepared by the respondents. However, owing to various intervening circumstances, another panel was prepared and P.Chellan was included only in that Supplementary Panel in Serial No.216 with Seniority No.1262. This was prepared in continuation of the earlier panel since, it had been stated that the names of the individuals in the Supplementary Panel had also qualified in the said Accounts examination. It is not a separate panel as such, but a continuation of the earlier panel. The seniority therefore, remained as it was. The petitioners were certainly senior to P.Chellan. The entire list of panel and the Supplementary panel were kept in abeyance consequent to the Lok Sabha Elections in the year 2009 and the coming into force of the Code of Conduct. Thereafter, the respondents had put the panel into effect. By that time, all the four petitioners and also P.Chellan had retired. P.Chellan then filed WP.No.26673/2010. By an order dated 14.03.2012, a learned Single Judge had examined the reason given by the



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respondents who are the respondents herein also, that the panel or a Supplementary panel could not be given effect consequent to the intervening Lok Sabha Elections and the Code of Conduct which had to be followed and by the time it could be given effect to, the petitioner therein P.Chellan had retired.

- (5) The learned Single Judge had however rejected that particular argument and had held as follows:-

"10.The perusal of the Impugned Order dated 20.11.2010 also reveals that the petitioner does not suffer from any disqualification and he has already reached the zone of consideration for promotion to the post of Assistant Accounts Officer. It is pertinent to note that the perusal of the Impugned Order further discloses that the supplementary panel was to be prepared on 25.03.2008 and the process was kept lie over due to Lok Sabha elections in the year 2009 as code of Conduct. It is fairly submitted by the learned Standing counsel for the respondents before this Court that the panel was prepared on 15.05.2009 and the petitioner's name was not considered only on the ground of his retirement on 31.03.2009. I am of the



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considered view that there is absolutely no legal impediment to promote the petitioner as the panel for promotion was prepared on 15.05.2009 and on that crucial date, the petitioner was very much in service and there is absolutely no justification to deny such benefit to the petitioner inspite of the admitted fact that the petitioner is fully qualified for such promotion.

11.In view of such sequence of events and the admitted facts, this Court is of the considered view that deprivation of the benefit of promotion to the petitioner is wholly unjustifiable and the reason assigned for rejecting the representation of the petitioner dated 30.04.2009, is untenable. The 2nd respondent ought to have atleast considered the representation of the petitioner dated 05.06.2009, which was given prior to the passing of the Impugned Order dated 20.11.2010 and nothing prevented the 2nd respondent to consider the said representation wherein the petitioner has sought for the relief of notional promotion with consequential monetary benefits. It is very unfortunate to note that the said representation is not at all referred in the Impugned Order dated 20.11.2010.

12.In view of the aforesaid reasons, this Court has come to the irresistible conclusion that the



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Impugned Order is unsustainable in law. Accordingly, the writ petition is allowed and the Impugned Order passed by the 2nd respondent dated 20.11.2010 vide proceedings in Lr.No.100224/G30/G301/2008 is hereby set aside. Consequently, the 2nd respondent is hereby directed to give notional promotion to the petitioner and pay the consequential monetary benefits with effect from 15.05.2009, the date on which the panel was approved, with all other attendant benefits. It is made clear that the above said exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order. No costs."

- (6) The reasons also apply to these petitioners herein. One of the main grounds for rejecting the case of the petitioners herein is that according to the learned Standing counsel for the respondents, the petitioners are fence sitters who had not approached the Court earlier and had awaited judgment delivered with respect to P.Chellan and then had approached the Court. But, it is a right which had vested with the petitioners herein consequent to them being included in the panel for promotion and that right cannot be overlooked merely because the petitioners had approached the Court a little later. It is



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also a fact that not everybody can approach the Court immediately and there would be instances or various grounds that writ petition would be filed a little later or a little earlier. But the fact is that the petitioners had given their representations and those representations had been rejected. The right which had accrued to P.Chellan which was recognized by this Court after his retirement, naturally also accrues to the petitioners herein also. The other order which was relied on by the learned Standing counsel for the respondents namely, the order of a learned Single Judge dated 24.01.2023 in WP.No.36604/2016 [*G.Jayauddin Vs. The Chairman, TANGEDCO, Chennai and Another*], would not be applicable to the case of the petitioners herein since the petitioners were in service on 15.05.2009 as P.Chellan and therefore, that order is distinguishable. It is therefore, clear that the petitioners should be granted necessary notional promotion with effect from 15.05.2009 as similar to that of P.Chellan. Necessary proceedings to be issued by the respondents within a period of sixteen weeks from the date of receipt of a copy of this order.



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(7) The writ petitions stand **allowed and the proceedings of the 2nd**
respondent dated 02.05.2016 are quashed. No costs.

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Internet : Yes



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To

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C.V.KARTHIKEYAN, J.,

AP

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