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**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

|               |            |
|---------------|------------|
| Reserved On   | 02.12.2024 |
| Pronounced On | 29.04.2025 |

CORAM :

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR**  
and  
**THE HONOURABLE MR.JUSTICE C.SARAVANAN**

W.A.No.2875 of 2024

1.The Tamil Nadu Generation and Distribution  
Corporation Limited,  
Represented by its Chairman-cum-Managing  
Director,  
No.144, Anna Salai,  
Chennai – 600 002.

2.The Chief Engineer/Personnel,  
Tamil Nadu Generation and Distribution  
Corporation Limited,  
No.144, Anna Salai,  
Chennai – 600 002.

... Appellants / Respondents

Vs.

K.Kalaichelvan,  
S/o.N.Kuppusamy

... Respondent / Petitioner

Prayer: Appeal under Clause 15 of the Letters Patent, against the Order dated 14.10.2022 passed in W.P.No.17131 of 2014.

For Appellants : Mr.K.Rajkumar

For Respondent : Mr.C.K.Chandrasekhar



W.A.No.2875 of 2024

## **JUDGMENT**

**WEB COPY** (Judgment of the Court was delivered by **C.SARAVANAN, J.**)

This Intra-Court Appeal is preferred against the Impugned Order dated 14.10.2022 passed by the Writ Court in W.P.No.17131 of 2014.

2. The said Writ Petition was filed by the Respondent herein for the following relief:-

“Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the Order No.025811/275/G30/G301/2014-1 dated 17.04.2014 issued by the 2<sup>nd</sup> respondent and quash the same as being illegal, arbitrary and unconstitutional and consequently issue a direction to the 1<sup>st</sup> and 2<sup>nd</sup> respondents to grant notional promotion to the petitioner to the post of Assistant Accounts Officer on the basis of the panel dated 21.10.2008 on par with his juniors, with all attendant service benefits, within a time frame.”

3. By the Impugned Order dated 14.10.2022, the Writ Court in W.P.No.17131 of 2014 quashed the Order dated 17.04.2014 issued by the 2<sup>nd</sup> Appellant and allowed the Writ Petition filed by the Respondent/Writ Petitioner with the following observations:-

*“7. By the time the Board proceedings dated 03.04.2010 was passed, the petitioner herein had reached the age of superannuation and he was also permitted to retire on 30.06.2009. Thus, citing this administrative*



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W.A.No.2875 of 2024

*order and attempting to give a retrospective effect may not be permissible.*

*8. When the petitioner's junior, namely P.Chellan, who had also reached the age of superannuation, had approached this Court, seeking for notional promotion to the post of Assistant Accounts Officer, his claim was entertained by the Writ Court and confirmed in the intra court appeal also. Admittedly, the petitioner herein is senior to Thiru.P.Chellan in the promotional panel. While that being so, the petitioner would also be entitled for the similar relief and for grant of notional promotion. By applying the ratio laid down by this Court in W.A.No.510 of 2013, I am inclined to allow the claim made by the petitioner herein. Thus, the reasons adduced by the respondent in the impugned order cannot be sustained.*

*9. In the light of the above findings, the impugned order dated 17.04.2014 is quashed. Consequently, there shall be a direction to the respondents herein to pass orders, granting notional promotion to the petitioner herein for the post of Assistant Accounts Officer, from the date on which his immediate junior was promoted and accordingly, disburse all the terminal and pensionary benefits, within a period of 6 weeks from the date of receipt of a copy of this order. Accordingly, the Writ Petition stands allowed. No costs."*

4. This is the 2<sup>nd</sup> round of litigation before this Court. The Order dated 17.04.2014 impugned in W.P.No.17131 of 2014 was passed by the 2<sup>nd</sup> Appellant pursuant to an earlier Order dated 13.02.2014 passed in W.P.No.23856 of 2009 preferred by the Respondent/Writ Petitioner, to direct the 1<sup>st</sup> and 2<sup>nd</sup> Appellant herein to grant notional promotion to the Respondent/Writ Petitioner to the post



W.A.No.2875 of 2024

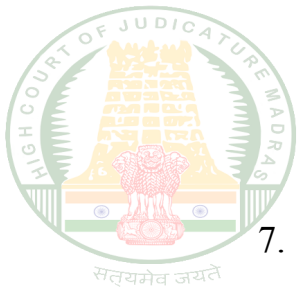
of 'Assistant Accounts Officer' with all attendant benefits by considering the

Respondent/Writ Petitioner's representations dated 15.06.2009 and 31.07.2009.

The Respondent/Writ Petitioner was serving as an 'Accounts Supervisor' and attained the age of superannuation on **30.06.2009**.

5. It appears that the Respondent/Writ Petitioner's name was also included in the panel for promotion to the post of 'Assistant Accounts Officer' with the crucial date on **25.03.2008** for the **panel year 2008-2009**. However, due to intervening Lok Sabha Elections, the Respondent/Writ Petitioner was not promoted. Before the next panel for promotion was prepared for the **panel year 2009-2010**, the Respondent/Writ Petitioner attained the age of superannuation and therefore retired on **30.06.2009** as 'Accounts Supervisor'.

6. It is in this background, the Respondent/Writ Petitioner requested for notional promotion to the post of 'Assistant Accounts Officer' with attendant benefits vide representations dated 15.06.2009 and 31.07.2009 in respect of which, W.P.No.23856 of 2009 was filed by the Respondent/Writ Petitioner, to direct the appellants to consider the Respondent/Writ Petitioner's representations dated 15.06.2009 and 31.07.2009.



W.A.No.2875 of 2024

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7. The Writ Court vide Order dated 13.02.2014, had earlier allowed W.P.No.23856 of 2009 by directing the Appellants herein (Respondents therein) to consider the aforesaid representations dated 15.06.2009 and 31.07.2009 of the Respondent/Writ Petitioner.

8. Pursuant to Order dated 13.02.2014 of the Writ Court in W.P.No.23856 of 2009, the Order dated 17.04.2014 impugned in W.P.No.17131 of 2014 came to be passed by the 2<sup>nd</sup> Appellant in its proceedings bearing Ref.Letter No.025811/275/G30/G301/2014-1 whereby the request of the Respondent/Writ Petitioner was rejected with the following observations:-

“In accordance with the order 3<sup>rd</sup> cited dated 13.02.2014 passed by the Madras High Court, Your Representation referred in 1, 2 and 4 namely 15-06-2009, 31-07-2009 and 13-02-2014 have been considere and issued the following order.

- i. With reference to the crucial date of 25-03-2008 for promotion to the post of Assistant Accounts Officer from the post of Accounts Supervisor, suitability report has been called for in respect of 251 Accounts Supervisor for preparation of supplementary panel for promotion to the post of Account Supervisor to Assistant Accounts Officer from the respective Superentending Engineer through this office letter dated 22-10-2008 and 04-11-2008. In which you are ranked as Sl.No.122 with reference to the seniority No.1033.
- ii. Due to the announcement of 2009 parliamentary election the supplementary panel with reference to the crucial date of 25-03-2008 got delayed. In the meantime the next crucial date of 25-03-2009 has crossed and therefore the preparation of supplementary panel with reference to the



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W.A.No.2875 of 2024

crucial date of 25-03-2008 was dropped and with reference to the crucial date of 25-03-2009 regular panel was prepared and issued in (Per) B.P. (CH) No.4, Administrative Branch dated 11-01-2010. But you have retired from service on 30-06-2009 even before the above order was issued.

- iii. Since you have retired from service on 30-06-2009 and that with reference to crucial date of 25-03-2009 for promotion to the post of Assistant Accounts Officer from the post of Accounts Supervisor a new panel was released on 11-01-2010. Therefore no occasion arose to examine the Educational qualification possessed by you.
- iv. In B.P.No.20233/A3/A32/2006-24, Secretariat Branch dated 03-04-2010 it has been ordered that one sitting B.Com Degree is not equivalent to 3 years B.Com degree and also not equivalent to junior and senior Grade Accountancy besides the said one year B.Com (Double Degree) cannot be taken into account for grant of Incentive Increment and promotions.
- v. On examination of your one year B on degree certificate [obtained from Osmania University (Hyderabad) through one sitting course by way of private study] from 01-04-1995 for about 9 months and wrote the examination from 30-10-1995 to 10-11-1995.
- vi. As per Board Proceedings No.20233/A3/A32/2006-24, Secretariat Branch dated 03-04-2010 the one sitting B.Com Degree is not an eligible qualification for promotion to the post Assistant Accounts Officer therefore even assuming a panel is published within time your name would not have been recommended for promotion.
- vii. The Judgment dated 21-08-2012 made in W.P.No.27273/2010 enclosed by you in your representation dated 13-03-2014 relates to one Mr.N.Kannaiyan, Accounts Supervisor, Nagai Electricity Distribution Circle who has obtained a degree through Open University by studying 3 years course and obtained the degree which is permissible under Regulation for promotion to the post of Assistant Accounts Officer. Therefore the case of Kannaiyan cannot be compared with



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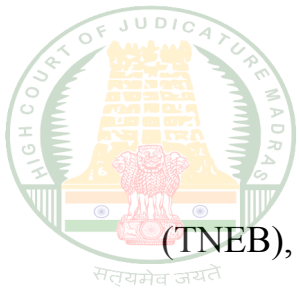
W.A.No.2875 of 2024

your case because it is not similar.

viii. Therefore it is informed that your representation dated 15-06-2009, 31-07-2009, 13-03-2014 have been considered in the light of the Court order made in W.P.No.27273/2010 dated 21-08-2012 and your request cannot be accepted and the same is accordingly rejected.”

9. It is in this background, the Respondent/Writ Petitioner challenged the aforesaid Order dated 17.04.2014 in W.P.No.17131 of 2014, which has culminated in the Impugned Order dated 14.10.2022 of the Writ Court wherein, the Writ Court has stated that since one of the Respondent/Writ Petitioner's junior namely one P.Chellan was given the benefit of notional promotion to the post of 'Assistant Accounts Officer' pursuant to an Order dated 14.03.2012 in W.P.No.28673 of 2010, the Respondent/Writ Petitioner also can be given the notional promotion to the post of 'Assistant Accounts Officer'. Therefore, it was submitted that the Respondent/Writ Petitioner was also entitled to similar relief.

10. The facts on record indicate that earlier the said P.Chellan (Sl.No.216) approached this Court in W.P.No.28673 of 2010 and had secured favourable order on 14.03.2012. The said P.Chellan challenged the Order dated 20.11.2010 of the Chief Engineer (Personnel), Tamil Nadu Electricity Board



W.A.No.2875 of 2024

(TNEB), Chennai, the 2<sup>nd</sup> Appellant. The Writ Court in W.P.No.28673 of 2010

had allowed the Writ Petition by entertaining his claim for notional promotion to the post of 'Assistant Accounts Officer'.

11. The Order dated 14.03.2012 of the Writ Court in W.P.No.28673 of 2010 was the subject matter of further challenge before the Division Bench of this Court in W.A.No.510 of 2013 by the Appellants herein.

12. By an Order dated 09.04.2013, the Division Bench of this Court had dismissed the Writ Appeal in W.A.No.510 of 2013 filed by the Appellants herein and confirmed the Order dated 14.03.2012 of the Writ Court in W.P.No.28673 of 2010 preferred by said P.Chellan, with the following observations:-

*“5. The mandatory duty on the part of the Government in considering the promotion of Government Servants at the relevant time was held to be a fundamental right guaranteed under Article 16 of the Constitution. The Supreme Court in the decision reported in Union of India Vs. Hemraj Singh Chauhan, 2014 (4) SCC 290 in paragraphs 35 and 36 held as follows:-*

*“35. The Court must keep in mind the constitutional obligation of both the appellants/Central Government as also the State Government. Both the Central Government and the State Government are to*



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W.A.No.2875 of 2024

*act as model employers, which is consistent with their role in a welfare State.*

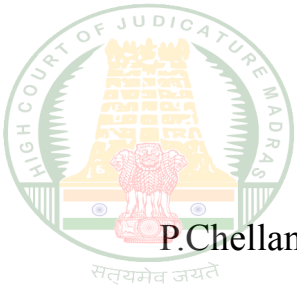
*36. It is an accepted legal position that the right of eligible employees to be considered for promotion is virtually a part of their fundamental right guaranteed under Article 16 of the Constitution. The guarantee of a fair consideration in matters of promotion under Article 16 virtually flows from guarantee of equality under Article 14 of the Constitution.”*

*(Emphasis Supplied)*

*6. Applying the said principle to the facts of this case, and the judgment of the Apex Court, we are unable to differ from the view taken by the learned single Judge. The writ appeal, which has no merits, is hereby dismissed. No costs. Consequently, miscellaneous petition is closed.”*

13. Following the aforesaid Order, the said N.Kannaiyan who was at Sl.No.176 in the Seniority List had also secured a favourable Order dated 21.08.2012 from this Court in W.P.No.27273 of 2010. The said **N.Kannaiyan** and **P.Chellan** were at **Sl.No.176** and **Sl.No.216** respectively in the Seniority List that was prepared on 21.10.2018, while the **Respondent/Writ Petitioner** was at **Sl.No.122**.

14. It is the specific case of the Appellants that the names of the Respondent/Writ Petitioner and as also the said N.Kannaiyan (Sl.No.176) and



W.A.No.2875 of 2024

P.Chellan (Sl.No.216) were only in the Seniority List of 'Accounts Supervisor'

for preparing panel for promotion of 'Accounts Supervisor' to the post of 'Assistant Accounts Officer' for the **panel year 2008-2009** and that their names were not in the panel of the approved employees for being promoted as 'Assistant Accounts Officers'.

15. It is submitted by the learned counsel for the Appellants that the Order dated 14.03.2012 in W.P.No.28673 of 2010 passed by the Writ Court in the case of P.Chellan, as affirmed by the Division Bench of this Court in W.A.No.510 of 2013 vide Order dated 09.04.2013 and the subsequent Order dated 21.08.2012 secured by the said N.Kannaiyan in W.P.No.27273 of 2010 are not relevant to the facts of the present case and therefore would not entitle the Respondent/Writ Petitioner a notional promotion to the post of 'Assistant Accounts Officer' as the Respondent/Writ Petitioner had already attained the age of superannuation on **30.06.2009**.

16. That apart, it is submitted that the Respondent/Writ Petitioner did not have requisite qualification for being promoted to the post of 'Assistant Accounts Officer' and therefore his name was rejected in the panel as he had secured one year B.Com., Degree, through Open University. Therefore, the



W.A.No.2875 of 2024

Respondent/Writ Petitioner was disqualified from being promoted as an

'Assistant Accounts Officer' as the Respondent/Writ Petitioner did not possess the requisite qualification.

17. It is the contention of the Appellants that the Respondent/Writ Petitioner was not entitled for a notional promotion to the post of 'Assistant Accounts Officer' in accordance with the Tamil Nadu Electricity Board Service Regulations corrected up to 30<sup>th</sup> June 2015. A reference to Regulation No.96 and Regulation No.97 of the Tamil Nadu Electricity Board Service Regulations.

18. In this connection, the learned counsel for the Appellants has also placed reliance on the following decisions of the Hon'ble Supreme Court and that of this Court:-

- i. **O.P.Lather and others Vs. Satish Kumar Kakkar and others**, (2001) 3 SCC 110.
- ii. **Deepak Agarwal and another Vs. State of Uttar Pradesh and others**, (2011) 6 SCC 725.
- iii. **Chaman Lal Vs. State of Punjab and others**, (2014) 15 SCC 715.
- iv. **Union of India and others Vs. R.P.Singh**, (2014) 7 SCC 340.
- v. **R.Muthukumar and others Vs. The Chairman and Managing Director TANGEDCO and others**, 2022 LiveLaw (SC) 140.
- vi. **Nadar Thanga Shubha Laxman, A. Vs. State of Tamil Nadu, Represented by its Principal Secretary, Chennai and another**, 2014 (3) CTC 433.



W.A.No.2875 of 2024

WEB COPY

19. On the other hand, the learned counsel for the Respondent/Writ Petitioner would submit that the Impugned Order dated 14.10.2022 of the Writ Court does not merit any interference in the hands of this Court. It is submitted that the Respondent/Writ Petitioner had obtained B.Com one year Degree through Open University (Osmania University) in the year 1995.

20. It is submitted that clarifications have been issued by the University Grants Commission (UGC) only in the year 2010 i.e., on 02.02.2010 to that effect that UGC has not approved any one year B.Com Degree Course and that any Undergraduate Course must be of 3 years duration under regular or distance mode.

21. It is submitted that, UGC vide Circular No.F.11-4/1992 dated 24.04.1996, 14.03.1997 and 30.06.1999 had stated that the candidates who have completed their one year Degree course upto the year 1998-1999 may be treated at par with other degrees of the University for all purposes including admission to higher degrees and employment.



W.A.No.2875 of 2024

WEB COP 22. Similarly, it is submitted that UGC vide its clarification dated

14.03.1997 bearing Ref.DO No.F.11-4/92 (CPP-II), clarified as under:-

“The degrees of the candidates enrolled for the one-time Bachelor's Degree Programme, upto the year 1995-1996 may be treated as valid. The degree of the candidates declared valid may be treated at part with other degrees of the same university for all purposes including admission to higher degrees and employment.”

23. It is submitted that similar clarification has also been obtained by the Respondent/Writ Petitioner from Osmania University vide its clarification dated 04.06.2009 bearing No.948/503/M/Acad/2009 wherein it has been clarified as under:-

“Based on the University Grants Commission Letter No.F-11/4/92 CPP-II of March, 1997, the Degrees of the candidates enrolled for the one-time Bachelor's Degree Programme, upto the year 1995-1996 be treated as valid. The Degree of the candidates be treated at par with other Degrees of this University for all purposes including admission to Higher Degrees and Employment.”

24. We have considered the arguments advanced by the learned counsel for the appellants and the learned counsel for the Respondent/Writ Petitioner. We have also perused the Orders passed by the Writ Court in the present case and that of the Writ Petition in WP.No. 27273 of 2010 in the case of



W.A.No.2875 of 2024

Mr.N.Kannaiyan and the Division Bench of this Court in the case of said

WEB P.Chellan in W.A.No.510 of 2013 dated 09.04.2013.

25. The Appellants have justified their decision in the Order dated 17.04.2014 of the 2<sup>nd</sup> Appellant impugned in W.P. No.17131 of 2014 by placing reliance on the **Memo dated 03.04.2010 bearing Ref.Memo.(Per) No.20233/A3/A32/2006-24 (Secretariat Branch)** wherein it has been clarified as under:-

- “3. Accordingly, it is hereby ordered that
- One year B.Com., (Double Degree) course under Distance Education mode shall not be taken into account for grant of incentive increment/promotion.
  - The payment of incentive increment and promotion already been allowed to the employees who have passed one year B.Com., (Double Degree) other than the employees who have obtained stay orders from the Hon'ble High Court shall be recovered and reverted respectively.
  - The recovery of incentive increments in respect of the employees who have obtained stay orders from the Hon'ble High Court shall be considered after the outcome of the Court's orders is known.”

26. Facts on record indicate that, a panel for promotion was prepared by the Appellant Board for promoting 'Accounts Supervisor' to the post of 'Assistant Accounts Officer' for the **panel year 2008-2009**. The crucial date for such promotion was **25.03.2008**. In the said panel for promotion, the name of



W.A.No.2875 of 2024

Mr.N.Kannaiyan, the Petitioner in W.P.No.27273 of 2010 and Mr.P.Chellan, the

petitioner in W.P.No.28673 of 2010 were there along with the name of the

Respondent/Writ Petitioner, Mr. K.Kalaichelvan.

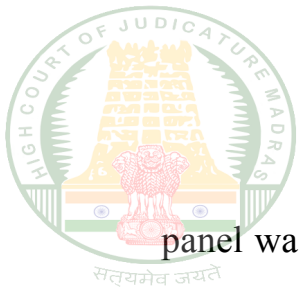
27. The seniority and the date of superannuation of the above named persons are as under:-

| Sl. No. | Writ Petition No.    | Name of the Writ Petitioner | Serial Number in the Seniority List | Date of superannuation |
|---------|----------------------|-----------------------------|-------------------------------------|------------------------|
| 1.      | W.P.No.27273 of 2010 | N.Kannaiyan                 | Sl.No.176                           | 31.07.2009             |
| 2.      | W.P.No.28673 of 2010 | P.Chellan                   | Sl.No.216                           | 31.05.2009             |
| 3.      | W.P.No.17131 of 2014 | K.Kalaichelvan*             | Sl.No.122                           | 30.06.2009             |

\* the Respondent/Writ Petitioner in the present case

28. The aforesaid panel for promotion was also sent to the 2<sup>nd</sup> Appellant on **21.10.2008**. However, it was neither acted upon nor could be given effect to since the Code of Conduct for ensuing Lok Sabha Elections in 2009 came into force and also on account of the failure of the Appellant Board to obtain prior permission from the Election Commission to act on the same.

29. Thus, none of the persons whose names were there in the panel for promotion for the panel year 2008-2009 were promoted to the post of 'Assistant Accounts Officer'. Under these circumstances, a fresh panel for promotion



W.A.No.2875 of 2024

panel was drawn and prepared for the post of 'Assistant Accounts Officer' with the crucial date as on **25.03.2009**.

30. Since the Respondent/Writ Petitioner was to attain the age of superannuation on **30.06.2009**, the name of the Respondent/Writ Petitioner was not included in the new panel for promotion prepared on the crucial date on **25.03.2009**. It appears that the names of the aforesaid other two persons were also not considered for promotion as they also were to attain the age of superannuation in around the same time when the new panel was prepared for promotion to the post of 'Assistant Accounts Officer'.

31. When the name of the Respondent/Writ Petitioner was included in the panel for promotion for the panel year 2008-2009 on the crucial date on 25.03.2008, the name of the Respondent / Writ Petitioner was in terms of Rule 96(1)(a) and Rule 96(1)(b) of the Tamil Nadu Electricity Board Service Regulations.

32. There have been amendments to the aforesaid Regulations from time to time. They are incoherent and therefore one has to examine them in the context for which they are provided and were amended. For instance, the



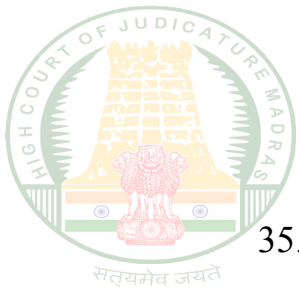
W.A.No.2875 of 2024

heading '**Special Tests to be passed or other qualifications to be acquired**'

has been given for Regulation 96(1)(a) of the Tamil Nadu Electricity Board Service Regulations.

33. The aforesaid heading '**Special Tests to be passed or other qualifications to be acquired**' should actually apply not only to Regulation 96(1)(a) but also to Regulation 96(1)(b) of the Tamil Nadu Electricity Board Service Regulations. However, on a microscopic and closer reading, it is evident, as far as the post of 'Assistant Accounts Officer' is concerned, the above heading applies to a "Direct Recruitment". This is clear from Sl.No.4 in Regulation 96(1)(a) of the Tamil Nadu Electricity Board Service Regulations.

34. Sl.Nos.01 to 03 and Sl.Nos.05 to 15 in Regulation 96(1)(a) of the Tamil Nadu Electricity Board Service Regulations are not relevant. Sl.No.4 in Regulation 96(1)(a) of the Tamil Nadu Electricity Board Service Regulations is confined to the post of 'Assistant Accounts Officer' recruited by way of 'Direct Recruitment'. It implies that it is applicable to those persons who are recruited to the post of 'Assistant Accounts Officer' directly.



W.A.No.2875 of 2024

35. Those persons who are recruited to the post of ‘Assistant Accounts Officer’ directly have to pass the departmental test for Accounts Officers within the period of probation, if they have not passed the test before as per the amendment vide (P) FB TANGEDCO Proceedings No.42, dated 08.07.2013. Relevant portion of Regulation 96(1)(a) of the Tamil Nadu Electricity Board Service Regulations is reproduced below for the sake of clarity:-

**“Regulation - 96.(1)(a) Special Tests to be passed or other qualifications to be acquired:-**

Persons appointed to the classes of service whether by direct recruitment or by promotion in the categories or posts specified in column (1) of the table below shall pass the tests of acquire the qualification specified in the corresponding entry in column (2) within the period stated or as otherwise required by the corresponding entry in column (3) thereof.-

| Sl.No. | Members of Class of Service                        | Tests or Qualifications                              | Period                                                                       |
|--------|----------------------------------------------------|------------------------------------------------------|------------------------------------------------------------------------------|
| (1)    | (2)                                                | (3)                                                  | (4)                                                                          |
| 1      | ---                                                | ---                                                  | ---                                                                          |
| 2      | ---                                                | ---                                                  | ---                                                                          |
| 3      | ---                                                | ---                                                  | ---                                                                          |
| 4      | <b>Assistant Accounts Officer recruited direct</b> | \$\$ Departmental Test for Accounts Officers<br>\$\$ | Within the period of probation, if he has not already passed the test before |

\$\$ Substituted vide (P) FB TANGEDCO Proceedings No.42, dated 08.07.2013.

No member of the categories specified in items (5) to (12) above shall be eligible for increments in the time-scale of pay applicable



W.A.No.2875 of 2024

to him or for promotion to higher posts unless and until he has passed the \$\$ Departmental Test for Technical Officers \$\$ according to the revised syllabus thereof including the Electricity Department Manual. Ineligibility for increments shall not operate to postpone future increments after he has passed the test.

\$\$ Substituted vide (P) FB TANGEDCO Proceedings No.42, dated 08.07.2013.

.....  
Note 1: .....

Note 2: If he does not pass the test in the Tamil Nadu Medical Code within the period of four years from the date of the order appointing him regularly on probation, his increment shall be stopped without cumulative effect till he passes the said test.”

36. As far as the promotion to the post of ‘Assistant Accounts Officer’ is concerned, the feeder post for promotion to the post of ‘Assistant Accounts Officer’ is the post of ‘Account Supervisor’.

37. Appointment by way of promotion to the post of 'Assistant Accounts Officer' is dealt under Regulation 96(1)(b) of the Tamil Nadu Electricity Board Service Regulations. Relevant portion of Regulation 96(1)(b) and other relevant Regulations of the Tamil Nadu Electricity Board Service Regulations read as under:-

**“Regulation - 96.(1)(b)** No employee shall be eligible for promotion to any of the posts mentioned in column (1) of the table below unless



W.A.No.2875 of 2024

and until he has passed the special tests specified in the corresponding entry in column (2) thereof,-

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| Sl. No. | Posts                                                                     |                            | Tests                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|---------|---------------------------------------------------------------------------|----------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (1)     | (2)                                                                       |                            | (3)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| (1)     | Board Office Administrative Branch and Technical Branch                   |                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|         | (i)                                                                       | ---                        | ----                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|         | (ii)                                                                      | ---                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| (2)     | Accounts Cadre in the Offices of Circles and Board Office Accounts Branch |                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|         | (i)                                                                       | Assistant Accounts Officer | Accountancy Higher Grade<br><br>&& Provided that those who have passed M.Com Degree with Accountancy as an optional subject or Advanced Accountancy (main/optional/elective whatsoever) after obtaining a degree in any branch or <b>directly through Open University System in any of the Universities recognized by the University Grants Commission shall be deemed to have been exempted from passing the Government Technical Examination in Accountancy by the Higher Grade</b> && |
|         | (ii)                                                                      | ---                        | ---                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|         | (iii)                                                                     | ---                        | ---                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| (3)     | Administrative Cadre in the Office of Circles                             |                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|         | ---                                                                       |                            | ---                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| (4)     | ---                                                                       |                            | ---                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| (5)     | ---                                                                       |                            | ---                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |

**&& Inserted vide (P) FB TANGEDCO Proceedings No.60, dated 02.11.2002.**



W.A.No.2875 of 2024

WEB COPY

Members in Circle Offices including the Construction Branch and Audit Branch who possess the B.Com degree of any university recognized by the University Grants Commission shall not be required to pass the Government Technical Examination in Accountancy. Those who have passed Accountancy in Part-III of the Intermediate Examination in Arts and Science of any university recognized by the University Grants Commission shall not be required to pass the Government Technical Examination in Accountancy by the Lower Grade for purpose of promotion as Assistant in Circle Offices (including the Construction Branch and the Accounts Branch).

Provided that members of the acquired Electrical Undertakings regularly absorbed, who have attained the age of 40 years on the 9<sup>th</sup> December, 1953, shall not be required to acquire the qualification prescribed for appointment to higher posts.

Provided also that members of the acquired Electrical Undertakings regularly absorbed, who were declared eligible for college course and who, after their absorption acquire the minimum general educational qualifications and who have attained the age of 40 years on the date on which they acquire such minimum general educational qualification shall not be required to acquire the qualification prescribed for appointment to higher posts.

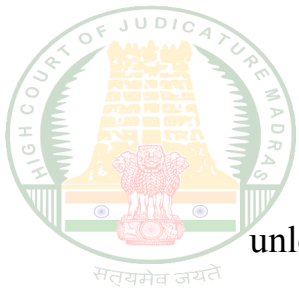
If an upper Division Clerk, II Grade appointed by direct recruitment before 01.01.1959 or an Upper Division Clerk/Assistant recruited thereafter in the Central Offices of the Operating Circles and Construction Circles and in the Office of the Chief Financial Controller fails to pass the \$\$ Departmental Accounts Test for Subordinate Officers \$\$ within the period of probation, the appointing authority shall forthwith, by order, terminate his probation and discharge him from the service.

\$\$ Substituted vide (P) FB TANGEDCO Proceedings No.42, dated 08.07.2013.

Provided that it shall be in the discretion of the appointing authority to appoint any such person as Junior Assistant, in the Central Offices of the Operating Circles and Construction Circles and in the Office of Accounts Branch as the case may be.

**(4) Special Qualification:**

No person shall be eligible for appointment to any class of service, category or grade or any post borne on the cadre thereof



unless he:

(a) Possesses such special qualification and has passed such special test as may be prescribed in that behalf in these Regulations; or

(b) Possesses such other qualifications as may be considered to be equivalent to or higher than the said special-qualifications or special tests by the Board or by the appointing authority with the approval of the Board.

In cases where the Regulations prescribe a period of practical or other experience in addition to educational/technical qualifications, for an appointment, such a period of practical or other experience, as the case may be, should have been acquired after obtaining the educational or technical qualifications prescribed for such appointment, unless otherwise specified in the Regulations.

**97. Seniority:**

(a) The seniority of a person in a class of service, category or grade shall, unless he has been reduced to a lower rank as a punishment, be determined by the rank obtained by him in the list of approved candidates drawn up by the Board or other appointing authority, as the case may be. The date of commencement of his probation shall be the date on which he joins duty irrespective of his Seniority.

Provided that the seniority of Assistant Engineers (Electrical) / (Civil) / (Mechanical) recruited both by Internal Selection and direct recruitment in the ratio of 1 : 1 in a particular calendar year shall be fixed in the following cyclic order:

(1) Internal Selection

(2) Direct Recruitment

(b) The transfer of a person from the category or grade in a class of service to another category or grade in the same class of service carrying the same pay or scale of pay shall not be treated as first appointment to the latter for purpose of seniority and the seniority of a person so transferred shall be determined with reference to the rank in the category or grade from which he was transferred. Where any difficulty or doubt arises in applying this Sub-Regulation, seniority shall be determined by the appointing authority.

(c) Where a member of a class of service, category or grade is reduced to a lower class or service, category or grade, he shall be



W.A.No.2875 of 2024

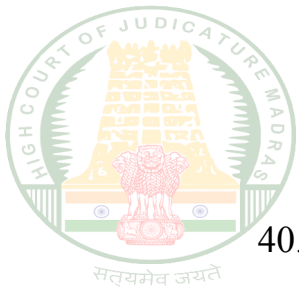
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placed at the top of the latter unless the authority ordering such reduction directs that he shall take rank in such lower class of service, category or grade, next below any specified member thereof.

(d) Application for the revision of seniority of a person in a service, class, category or grade shall be submitted to the appointing authority within a period of three years from the date of appointment to such service, class, category or grade or within a period of three years from the date of order fixing the Seniority, as the case may be. Any application received after the said period of three years shall be summarily rejected. This shall not, however, be applicable to cases of rectifying orders, resulting from mistake of facts.”

38. In fact as far as the Respondent/Writ Petitioner is concerned, the Respondent/Writ Petitioner had obtained B.Com Degree through Open University (Osmania University) in one-sitting in the year 1995 from 01.04.1995 for about 9 months and had written examinations between 30.10.1995 and 10.11.1995 as is evident from the Order dated 17.04.2014 of the 2<sup>nd</sup> Appellant impugned in WP.17131 of 2014.

39. This qualification was recognized as per the **Clarification of UGC bearing Ref.No.F.11-4/1992 (CPP-II) dated 14.03.1997** that prevailed when the Respondent/Writ Petitioner name was included in the panel for promotion to the post of 'Assistant Accounts Officer' in the **Panel Year 2008-2009**.

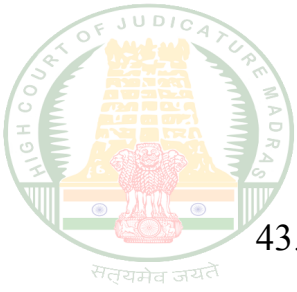


W.A.No.2875 of 2024

40. The Respondent/Writ Petitioner has also obtained a similar clarification bearing No.948/503/M/Acad/2009 *post facto* on 04.06.2009, wherein it has been clarified that the degree of the candidates enrolled for the one-time Bachelor's Degree Programme, upto the year 1995-1996 was be treated as valid and at par with other degrees of the University for all purposes including admission to Higher Degrees and Employment.

41. Thus, it is evident that the Respondent/Writ Petitioner was eligible for promotion to the post of 'Assistant Accounts Officer'. His promotion was denied as he was to retire as on **30.06.2009**.

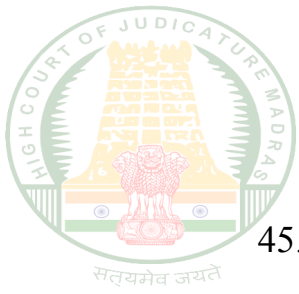
42. Memo bearing Ref.Memo.(Per) No.20233/A3/A32/2006-24 (Secretariat Branch) dated 03.04.2010 cannot be put against the Respondent/Writ Petitioner as it was not in force when the Respondent/Writ Petitioner was eligible to be promoted. This Memo cannot be applied retrospectively to the case of the Respondent/Writ Petitioner as he attained the age of superannuation on **30.06.2009**.



W.A.No.2875 of 2024

43. Further, the name of Respondent/Writ Petitioner was placed at the S.No.122 when the panel for promotion for the post of 'Assistant Accounts Officer' was prepared for the Panel Year 2008-2009. This was done as the Respondent/Writ Petitioner had possessed, the requisite qualifications at that time of preparation of the promotional panel. This being the case, the Appellants cannot justify denial of notional promotion to the Respondent / Writ Petitioner.

44. That apart, the Respondent/Writ Petitioner's juniors namely the said Mr.P.Chellan, who was the Petitioner in **W.P.No.28673 of 2010** and Mr.N.Kannaiyan, who was the Petitioner in **W.P.No.27273 of 2010** have been given notional promotion to the post of 'Assistant Accounts Officer' though they had also retired at about the same time, when the Respondent/Writ Petitioner attained the age of superannuation and retired on **30.06.2009** as detailed in the Table in Paragraph No.27 of this order. Therefore, the Respondent/Writ Petitioner cannot be denied notional promotion to the post of 'Assistant Accounts Officer'.



W.A.No.2875 of 2024

45. We find no merits in the challenge to the Impugned Order dated 14.10.2022 of the Writ Court in W.P.No.17131 of 2014.

46. We therefore find no reasons to interfere with the Impugned Order dated 14.10.2022 of the Writ Court and are thus inclined to dismiss the present Writ Appeal and thereby affirm the Impugned Order dated 14.10.2022 passed by the Writ Court in W.P.No.17131 of 2014.

47. In the result, this Writ Appeal, is thus, dismissed. No costs.

**[R.S.K., J.]**

**[C.S.N., J.]**

**29.04.2025**

Neutral Citation : Yes / No

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W.A.No.2875 of 2024

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- 1.The Chairman-cum-Managing Director,  
The Tamil Nadu Generation and Distribution  
Corporation Limited,  
No.144, Anna Salai,  
Chennai – 600 002.
- 2.The Chief Engineer/Personnel,  
Tamil Nadu Generation and Distribution  
Corporation Limited,  
No.144, Anna Salai,  
Chennai – 600 002.



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W.A.No.2875 of 2024

**R.SURESH KUMAR, J.**  
**and**  
**C.SARAVANAN, J.**

arb

**Pre-Delivery Judgment in W.A.No.2875 of 2024**

29.04.2025