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W.P.No.802 of 2019



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 06.10.2025

PRONOUNCED ON : 17.10.2025

CORAM:

THE HONOURABLE MR. JUSTICE T.VINOD KUMAR

W.P.No.802 of 2019

A.Sekar

.. Petitioner

vs

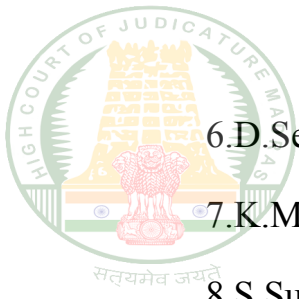
1. The Chairman- cum-Managing
Director
Tamil Nadu Generation and
Distribution Corporation Ltd,
No.144, Anna salai,
Chennai-600 002

2.The Chief Engineer Personnel
TamilNadu Generation and
Distribution corporation Ltd,
No.144, Anna salai,
Chennai -600 002.

3.R.Kumar
Assistant Engineer,
C/o.The Superintending Engineer,
Cuddalore

4.K.Subramani
Assistant Engineer,
Mettur Thermal Power station-1,
Turbine Maintenance, Mettur Dam

5.A.Saranarayanan,



6.D.Senthilkumar

7.K.Mohan

8.S.Sudha

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9.. M.Venkatesan

10.T.Bakkiaraj

11.V.Selvamani

12.J.Jayaprakash

13.G.Suganthi

14.P.Prabhu

15.G.Thamizharasan

16.A.Suriya Prabha

17.K.A.Aruthra Maheswari

18.S.Manikandan

19.N.Krishnansamy

20.A.Navamani

21.R.Poornima

22.S.Kalaiselvi

23.V.Karthik

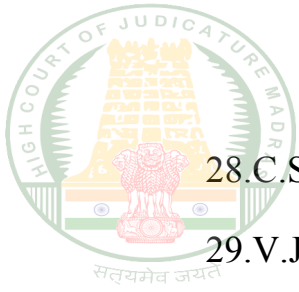
24.T.Jayan

25.N.Eswaramoorthy

26.S.Charles Rajkumar

27.K.Sivasadhana Devi

2/39



28.C.Shanthakumari

29.V.Jesudoss

WEB COPY 30.T.Ramesh

31.S.Gomathy Selvi

32.P.Ashok Kumar

33.K.Suresh Kumar

34.N.Gopi

35.D.Madana Gopalraj

36.C.Prabu

37.C.Saravana Priya

38.P.Prabu

39.S.Leenal

40.N.Patturaja

41.J.Jayaprakash

42.J.Sathya Narayanan

43.R.Sabari

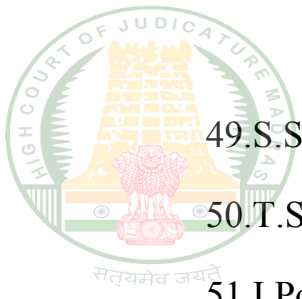
44.R.Raja

45.S.Usha

46.P.Anand

47.S.Sithi Vinayagam

48.. K.R.Ratha



49.S.Shenbagam

50.T.Sweetha

51.I.Pon Pandian

52.K.Suresh

53.C.Ramesh

54.R.Latha

55.L.Sridhar

56.M.Vijaya Bharathi

57.P.Rajesh

58.P.Sangeetha

59.K.Dhamayanthi

60.S.Sudha Rani

61.K.Sankar Kumar

62.R.Suresh

63.T.Kotteswaran

64.J.Mahendiran

65.S.Balaji

66.E.Karthikeyan

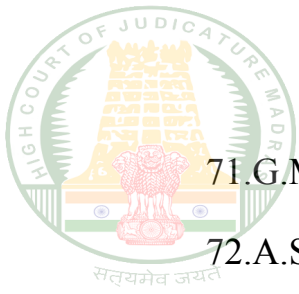
67.J.Chandrasekaran

68.R.Sathishkumar

69.A.Govindaraju

70.G.Ethiraj

4/39



71.G.Moorthy

72.A.Sathiyamala

W.P.No.802 of 2019



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... Respondents

(R5 to R72 are impleaded vide order dated 22.02.2019,
made in W.M.P.No.5615 of 2019 in W.P.No.802 of 2019 by SMSJ.)

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of certiorari mandamus to call for the proceedings of the 2nd respondent in Board Proceedings in B.P.Ms.(F.B).No.65 (Administrative Branch) dated 12/08/1985 and his letter No. 093166 / 375 / G.1 / G.11 / 2018- 4 dated 03.12.2018 and quash both the orders as illegal and consequently direct the respondents to fix the petitioner's seniority as per the Regulation 97 of the TNEB Service Regulations.

(Prayer amended vide order dt 25/03/2019 made in WMP.No.8557/19 in WP.No.802/19 by SMSJ)

For Petitioner : Mr.R.Singaravelan, Senior Advocate
for Mr.K.Sasindaran
For Respondents : Mr.R.Nikkhilesh Athav
for Mr.K.Rajkumar for R1 and R2
Standing Counsel
Mr.Naveen Kumar Murthy for R5 to R72
No appearance for R3 and R4

ORDER



Heard Mr.R.Singaravelan, learned Senior Counsel appearing for Mr.K.Sasisdaran, learned counsel for the petitioner and the learned Standing Counsel for the official respondents 1 and 2 and the learned counsel for the impleaded respondents 5 to 72, no representation for the respondents 3 and 4 and perused the records.

2. The case of the petitioner in brief is that he was appointed on Compassionate Ground as Technical Assistant on 12.04.1996 and thereafter was promoted as Junior Engineer Grade II on 25.11.2002 and further promoted as Junior Engineer Grade I on 22.01.2007; that the petitioner at the time of being appointed as Technical Assistant was possessing Diploma in Electrical Engineering; that with the permission of the employer/ respondents, he had completed B.E. Degree in April 2007; and that as per the respondents Regulations titled “Tamil Nadu Electricity Board Service Regulations” (hereinafter referred to as 'Regulations'), the persons holding Diploma degree and working as Junior Engineer Grade-I, on obtaining bachelor degree in Engineering are redesignated as Assistant Engineer (Electrical).



3. It is the further case of the petitioner that Junior Engineer Grade 1 and Assistant Engineer (Electrical) has equal scale of pay; that the petitioner on obtaining engineering decree, applied to the respondents for being redesignated as Assistant Engineer in terms of proceedings vide B.P.Ms(F.B.).No.65 (Administrative Branch) dated 12.08.1995 [hereinafter referred to as B.P.No.65]; and that the respondents vide memo dated 05.10.2009 had redesignated the petitioner as Assistant Engineer (Electrical) w.e.f. the date of passing of the examination (i.e.,) April 2007 and retained in same circle where he was working.

4. It is further contended by the petitioner that while issuing the proceedings dated 05.10.2019 redesignating the petitioner as Assistant Engineer (Electrical), it has been specified that the petitioner's "seniority in the redesignated post would be fixed below all the persons (Assistant Engineers) selected during the calendar year 2007 batch which will be communicated in due course along with others"; that no seniority list was communicated thereafter and it is only on 18.07.2018 a tentative seniority list of Assistant Engineer (Electrical) of the year 2007 was issued wherein the petitioner seniority was shown at Sl.No.401; and that the respondents while issuing the tentative seniority list had indicated that if any



discrepancies are found in the inter-se-seniority they are entitled to make an appeal within a period of three months by sending the same through Superintending Engineers concerned; that aggrieved by the tentative Seniority list placing him at Sl.No.401, he had filed an appeal on 23.08.2018, through proper channel; and that the aforesaid appeal has not been disposed of till date.

5. It is the further case of the petitioner that the respondents while issuing the tentative seniority list of the year 2007 placing the petitioner at Sl.No.401, had placed the 4th respondent who had also obtained the Engineering decree at the same time as the petitioner at Sl.No.193; and that as the 4th respondent at the time of obtaining Engineering decree was only working as Technical Assistant, could not have been placed over and above the petitioner.

6. It is the further contention of the petitioner that there is an internal inconsistency between clause 3(i), (ii) and (iii) of B.P.No.65 and that the said sub-clauses run contrary to Regulations 97 of the Regulations.



7. It is contended that as per Sub clause (i) of Clause 3 of B.P.No.65, the petitioner who was working as Junior Engineer Grade I, on obtaining Engineering degree is to be redesignated to take the rank in the category of Assistant Engineer with reference to the date of acquiring the qualification; and that placing the petitioner below candidates who are selected to the post of Assistant Engineer (Electrical) under direct recruitment and also internal selection is contrary to the Sub Clause (i) of Clause 3 as per which the Junior Engineer Grade-I would take rank on the date of acquiring the qualification and as such placing the petitioner in seniority below other candidates is illegal and also contrary to regulations 97 of the Regulations.

8. It is also contended by the petitioner that the respondents by giving priority to Sub clause (ii) of Clause 3, are making the Sub clause (i) of Clause 3 otiose and redundant.

9. On behalf of the petitioner it is also contended that the respondent undertakes the recruitment to the post of Assistant Engineer (Electrical) through direct recruitment and internal selection in the ratio of 1 : 1; and that insofar as recruiting candidates through internal selection of various categories of employees i.e., Technical Assistant, Commercial Assistant,



Commercial Inspector, Helper, Foreman Grade – I, Special Grade Foreman, Junior Engineer Grade II, Wireman and Field Assistants are considered subject to completing one year of service post acquiring the qualification of B.E. However, in respect of candidates belonging to SC / ST communities they are exempted from the aforesaid cooling period of one year.

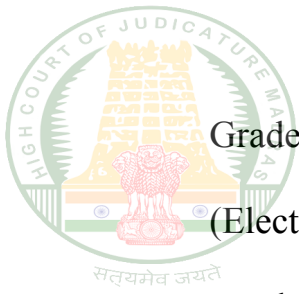
10. It is further case of the petitioner that the respondents while appointing candidates through internal selection to Assistant Engineer have specifically excluded Junior Engineer Grade-I from being considered, as the post of Junior Engineer Grade-I is equal to Assistant Engineer (Electrical) with equal scale of pay. The respondent however, while fixing the seniority, have placed the candidates like petitioner who have been working as Junior Engineer Grade-I and redesignated as Assistant Engineer (Electrical), below the candidates who are selected by way of direct recruitment and also through internal selection thereby making a senior who was earlier working as Junior Engineer Grade-I and redesignated as Assistant Engineer (Electrical), Junior to a Junior Engineer Grade-II and similar other candidates who have been selected to the post of Assistant Engineer (Electrical) through internal selection.



11. Petitioner also contended that the respondents while prescribing the mode of selection to the post of Assistant Engineer (Electrical) through direct recruitment / internal selection, have excluded the candidate working as Junior Engineer Grade-I like petitioner from being considered either under the category of internal selection or by creating a separate category, and thus, the B.P.No.65 on the basis of which the respondent have resorted to the aforesaid action and also the tentative seniority list as issued by the 2nd respondent dated 18.07.2018 are required to be quashed.

12. Counter affidavit on behalf of the second respondent is filed.

13. By the counter affidavit it is contended that as per Sub Clause (ii) of Clause 3 of B.P.No.65, Junior Engineer Grade I who are redesignated as Assistant Engineer (Electrical) will be assigned rank below to last Assistant Engineer selected by the respondent Board in the calendar year, in which they acquire qualification. The second respondent by referring to Sub Clause (vii) of Clause 7 of B.P.No.65 further contended that the Junior Engineer Grade I who had applied for redesignation for Assistant Engineer after acquiring BE decree or equivalent, are required to give an undertaking to the effect that they will not claim lien in the post of Junior Engineer



Grade-I on redesignation; and that the seniority of Assistant Engineer (Electrical) is being assigned in the ratio of 1 : 1 in cycle order as per regulations 97 of Service Regulations i.e., (i) internal selection and (ii) direct recruitment.

14. By the counter affidavit it is further contended that during the year 2007, 278 and 102 candidates were selected to the post of Assistant Engineer (Electrical) by direct recruitment and internal selection respectively and the seniority of the direct recruitment and internal selection have been fixed in the ratio of 1 : 1 as per regulations 97 of Service Regulations; that after fixing the seniority of the candidates selected through direct recruitment and internal selection as per sub clause(iii) of clause 3 of BP.No.65, the seniority of redesignated persons was fixed and thus, the petitioner was placed at Sl.No.401 in the inter-se-seniority list of Assistant Engineer (Electrical) 2007 batch, vide memo dated 18.07.2018.

15. It is contended by the respondent that the petitioner himself had submitted request for redesignation by following the conditions prescribed under BP.No.65 dated 12.08.1985, and on the same being acceded to by the respondents, as a concessional measure, the petitioner cannot now call in



question the seniority list, claiming seniority in rank based on date of acquisition of the qualification, and the petitioner is estopped from making the aforesaid claim. It is also contended by the respondents that by making the above claim, the petitioner is repudiating the undertaking given by him at the time of making application for redesignation and the proceedings issued in 2009, nearly after a decade. Thus, on account of delay and laches also the petitioner's claim cannot be considered.

16. On behalf of the impleaded respondents 5 to 72, it is contended that pursuant to vacancy notification issued by the respondent, the unofficial respondents were selected through process of selection of written test and interview. Thus the unofficial respondents form a separate class by themselves and as such cannot be placed below the candidates who are either redesignated or selected through internal selection by preparing a common list of candidates recruited during the Calendar year. The learned Counsel further contended that the Regulations itself contemplates of separate selection process for direct recruitment and also preparation and maintenance of separate list while fixing seniority as per regulation No.97 of Regulations.

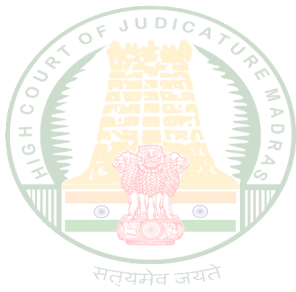


17. On behalf of the impleaded respondents, it is further contended that since, each of the Sub Clause in Clause 3 are not conjoined by using the word 'or' or 'and', each of the clauses have to be treated independently and if each of the clause is construed independently, and the direct recruitees in a calendar year cannot be pushed below the candidates who have been redesignated as Assistant Engineer (Electrical) based on the qualification acquired by them during the year.

18. I have taken note of the respective contentions urged.

19. Though the petitioner had sought for quashing of BP.No.65 dated 12.08.1985 as being contrary to regulation No.97 of the Regulations, the issue raised relates to fixation of inter-se-seniority among the direct recruits, candidates selected through process of internal selection and the Junior Engineer Grade-I who are redesignated as Assistant Engineer (Electrical). Thus, it would be appropriate to refer to the relevant Regulations and clauses in Board Proceedings which are bone of contention.

20. The relevant Regulation which have bearing to the issue involved are regulation No.92 and 97 of the Regulations which read as under :-



92. Appointment:

(a) *Appointment to the several classes, divisions and categories specified in column (1) of Annexure I shall be made as specified in the corresponding entry in column (2) thereof.*

(b) *A member of the Chennai Local Authorities Electrical Engineers' Service shall not be eligible for appointment as Executive Electrical Engineer in Category 3, Division III of Class I or as Assistant Executive Engineer (Electrical) in Category 1, Division II of Class II, unless he has relinquished in writing his right for appointment as Member, Chennai Local Authorities Electrical Engineers' service in I Grade declared fit for holding Divisional charge in category 4, Division III of Class I, or as Member, Chennai Local Authorities Electrical Engineers' Service in I Grade (other than those in category 4, Division III of Class I) and II Grade, in Category 2, Division II of Class II, as the case may be.*

Note: *The relinquishment of right by a member of the Chennai Local Authorities Electrical Engineers' Service shall be made within two months from the receipt of the communication from the Chief Engineer in this behalf.*

(c) *Such relinquishment of right made by a person as required above, shall be final and irrevocable and shall render him ineligible for appointment to Category 4 in Division III of Class I or to Category 2 in Division II of Class II, as the case may be.*



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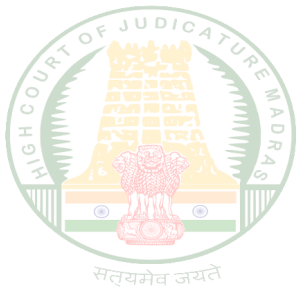
(d) *Such number of temporary vacancies in the categories of Assistant Executive Engineer (Electrical), Assistant Executive Engineer (civil), Accounts Officer and Assistant Accounts Officer, as the Board may from time to time determine, shall be filled or reserved to be filled by direct recruitment.*

(e) *The principle of reservation of appointment for Scheduled Castes, Scheduled Tribes and Backward Classes, shall apply to appointments by transfer/appointments by direct recruitment or both to all categories of the posts except Office Helper in Tamil Nadu Electricity Board.*

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



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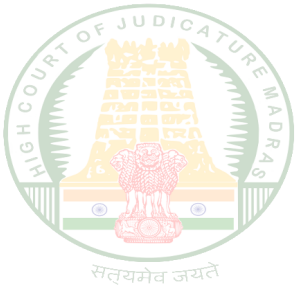
in a particular calendar year shall be fixed in the following cyclic order:

(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 122 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 of service, category or grade, he shall be 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.



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(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.

21. Apart from the above Regulations which substantially deal with “Appointment” and “Seniority”, regulation No.88 of Regulations with the heading “Constitution” specifies the classes, categories and grade of Respondents Board. As per Regulation 88 the post of Assistant Engineer (Electrical), Junior Engineer (Electrical) Grade I is placed in Class-II, Division-II, category 3, while Junior Engineer (Electrical) Grade II is specified / placed in Class III, Division I, Category II.



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22. Regulation 89(5) deals with “Mode of Recruitment” and states that normal course of recruitment for direct recruitment in all classes of service is through employment exchange. However, recruitment through other sources like advertisement shall be resorted to in case suitable qualified persons are not available through the Employment Exchange

23. A reading of Clause (a) of regulation No.92 of the Regulations supra shows that the same deals with appointment to the several classes, Divisions and categories, specified in Column (1) of Annexure-I, in the manner specified in corresponding entry in Column-II thereof.

24. Annexure I to the regulations has in all IV classes and insofar as the recruitment to the post of Assistant Engineer (Electrical) is concerned the same is specified in Class – II Division – II (electrical) in Category III. In respect of appointments of Assistant Engineer (Electrical) is concerned it states that the persons to the aforesaid post would be appointed through internal selection and direct recruitment in the ratio of 1 : 1. Insofar as the internal selection is concerned, it is based on minimum length of service rendered after requiring B.E. degree or equivalent qualification as may be decided by the Board from time to time.



25. For ease of reference, the relevant portion of Annexure – I is

reproduced below :-

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(1)	(2)	(3)
CLASS II		
Division I		
Category 1	OMITTED	
Category 2	Section Officer/ Board Office Secretariat Branch.	Promotion from \$\$ Assistant Section Officers \$\$ in Category 1 Division VI (a) in Class III. \$\$ Substituted vide (Per) FB TANGEDCO Proceedings No.35 (SB), dt.05.07.2013.
Category 3	Legal Officer	By appointment from Section Officer who have worked/are working in Legal Cell of Board Secretariat Branch; or By appointment from Section Officers in Board Office Secretariat Branch; or By deputation of Section Officers from Law Department of the Government of Tamil Nadu.
Note: Superintendents in the Office of the Administrative Branch of the Board may be appointed as Section Officer in the Office of the Tamil Nadu Electricity Board Secretariat Branch for a specific work and the appointment shall be for such period as the Board may consider necessary. A member of the Administrative Branch of the Board so appointed, shall not, by reason only of such appointment cease to be a member of the category from which he was appointed nor shall such appointment confer on him any claim to substantive appointment as Section Officer or to appointment thereto in any subsequent acting or temporary vacancy.		
## Category 4	Private Secretary	By promotion from Personal Assistant in Division VI-A under the heading Board Office Secretariat Branch in Class-III. ## ## Added vide (Per) B.P.(FB) No.11 (SB), dated 10.04.2003.
DIVISION II (ELECTRICAL)		
Category 1	Assistant Executive Engineers (Electrical)	Direct recruitment to such number of temporary posts as the Electricity Board may from time to time determine, and for the remaining by promotion from Assistant Engineers (Electrical) in category 3 and Junior Engineers (Electrical) I Grade in category 4 or by promotion of Chief Head Draughtsman Division VII in Class II. Promotion of Assistant Engineers (Electrical) and Junior Engineers (Electrical) I Grade to the post of Assistant Executive Engineers shall be in the ratio of 3 : 1 respectively. ## One Chief Head draughtsman shall be placed at the top of each and every annual panel for promotion to the post of Assistant Executive Engineer/Electrical. ## ## Added vide (Per) B.P.(FB) No.101 (SB), dated 14.12.2000.
Category 2	OMITTED	



(1)	(2)	(3)								
Category 3	Assistant Engineer (Electrical)	\$\$ Internal Selection and Direct Recruitment shall be made in the ratio of 1:1. Internal selection shall be made xxxxx based on a minimum length of service rendered after acquiring B.E. Degree or equivalent qualification, as may be decided by the Board from time to time. \$\$ \$\$ Substituted vide (Per) B.P.(FB) No.23 (SB), dated 12.04.2001. xxxxx Expressions omitted vide (Per) B.P.(FB) No.17 (SB), dated 06.03.2002.								
Note 1: Those who have been recruited as Assistant Engineers (Telecommunication) shall be merged in the cadre of Assistant Engineers (Electrical), and their seniority fixed with reference to the date of their appointment as Assistant Engineer (Telecommunication). && Note 2: Every batch of recruits to the category of Assistant Engineer (Electrical) shall consist of persons possessing the prescribed qualification with the discipline and in the percentage as specified below:- <table border="0"> <tr> <td>Electrical & Electronics Engineering</td><td>: 91%</td></tr> <tr> <td>Electronics & Communication Engineering</td><td>: 5%</td></tr> <tr> <td>Instrumentation Engineering</td><td>: 2%</td></tr> <tr> <td>Computer Science/Information Technology Engineering</td><td>: 2% &&</td></tr> </table> && Substituted vide (Per) B.P.(FB) No.7 (SB), dt.08.02.2006.			Electrical & Electronics Engineering	: 91%	Electronics & Communication Engineering	: 5%	Instrumentation Engineering	: 2%	Computer Science/Information Technology Engineering	: 2% &&
Electrical & Electronics Engineering	: 91%									
Electronics & Communication Engineering	: 5%									
Instrumentation Engineering	: 2%									
Computer Science/Information Technology Engineering	: 2% &&									
Category 4	Junior Engineer (Electrical) Grade I	Promotion from Junior Engineer (Electrical) II Grade in Division I Class III.								
Note: Junior Engineers (Electrical) I Grade, who are holders of Diploma in Electrical Engineering and who have subsequently acquired a degree in Electrical Engineering shall be permitted to be redesignated as Assistant Engineers (Electrical) and appointed in the post of Assistant Engineers (Electrical), if there are regular vacancies in the post of Assistant Engineers (Electrical).										



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26. Note 2 appended below the table of Category II in Class II of Annexure I, prescribes qualification with the discipline and the percentage for every batch of recruits and reads as under :

“Note 2 : Every batch of recruits to the category of Assistant Engineer (Electrical) shall consist of persons possessing the prescribed qualification with the discipline and in the percentage as specified below:-

Electrical & Electronics Engineering	: 91%
Electronics & Communication Engineering and Instrumentation Engineering	: 7%
Computer Science/Information Technology Engineering	: 2% ”

27. The “Note” appended below the table of category 4 reads as under :-

“Note : Junior Engineers (Electrical) I Grade, who are holders of Diploma in Electrical Engineering and who have subsequently acquired a degree in Electrical Engineering shall be permitted to be redesignated as Assistant Engineers (Electrical) and appointed in the post of Assistant Engineers (Electrical), if there are regular vacancies in the post of Assistant Engineers (Electrical).”

(underlining supplied by Court)



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28. Before dealing with challenge to clause 3 of BP.No.65, since, the respondents contended that the redesignation to Junior Engineer Grade-I was given as a concession and on the application made, it is to be noted that from a reading of the “Note” as extracted above appended below the table of Division II (Electrical), it would be clear and evident that Junior Engineer (Electrical) Grade I on acquiring a degree in Electrical Engineer, is not merely redesignated as Assistant Engineer (Electrical), but is appointed to the post of Assistant Engineer (Electrical) against a existing regular vacancy.

29. Thus, it is important to note that Junior Engineer (Electrical) Grade I, merely on his acquiring decree in Electrical Engineering would not stand to get redesignated as Electrical Engineer, if no vacancies exist, for him to be appointed in such vacancy, even though, there is no change in scale of pay between Junior Engineer Grade I and Assistant Engineer (Electrical).

30. Further, the fact of respondents, on an application made by the petitioner for being redesignated as Assistant Engineer (Electrical) on acquiring B.E. decree in April 2007, having approved the same vide its order



dated 05.09.2009 would go to show that redesignation is not automatic and also is not mere change of nomenclature but is an appointment from the post of Junior Engineer Grade -I to that of Assistant Engineer (Electrical), though with the same scale of pay to begin with. It is for the said reason, clause 3(i) of B.P.No.65 mentions that their past service would not be reckoned for the purposes of seniority in the category of Assistant Engineers.

31. Thus, the redesignation of Junior Engineer Grade-I to Assistant Engineer (Electrical) firstly, is to be treated as an appointment having forgone the seniority upto Junior Engineer Grade-I and secondly, since, the regulation No.92 of the Regulations read with Annexure I provides for only two methods of recruitments i.e., internal selection and direct recruitment, such redesignation and appointment is to be treated as forming part of internal selection.

32. Once, the Junior Engineer Grade I who on acquiring decree in Engineering is appointed and redesignated as Assistant Engineer (Electrical), the seniority of such candidates selected through process of internal selection is to be reckoned from the date of acquiring qualification as

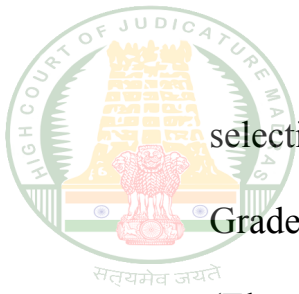


specified in Clause 3 (i) of B.P. 65, among the candidates who are selected through the process of internal selection.

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33. It is only by considering the candidates who have been working as Junior Engineer Grade I and appointed and redesignated as Assistant Engineer (Electrical) alongwith other candidates who are working in different positions with the respondents and selected as Assistant Engineer (Electrical) through mechanism of internal selection, the inter-se-seniority among such candidates is to be fixed by preparing a list based on the date of acquisition of qualification in case of redesignated Assistant Engineer (Electrical) and the date of approval of the list of other candidates selected through the process of internal selection as specified in Sub clause (iv) of clause 3 of B.P.No.65. Similarly, a separate list in respect of direct recruits appointed during a particular year is to be prepared for applying cyclic order as specified in regulation No.97 of the Regulations for fixing inter-se seniority in the ratio of 1:1.

34. Though, the respondents by the counter affidavit had stated that during the year 2007, 278 candidates were selected to the post of Assistant Engineer (Electrical) by direct recruitment and 102 candidates by internal



selection respectively, since, the respondents have excluded Junior Engineer Grade -I who were redesignated and appointed as Assistant Engineer (Electrical) and also having given up their seniority as Junior Engineer Grade I from being considered as selected through internal selection, this Court is of the view the respondents are to be directed to include such of the candidates like the petitioner who are redesignated, in the list of the candidates selected through internal selection based on the date of acquiring the qualification. This is also for the reason that there is no exam or selection method or process fixed for internal selection unlike in the case of direct recruitment.

35. At this stage, it is relevant to note that when a written examination was sought to be introduced for “internal selection” the said proposal was challenged before this Court by filing writ petition vide WP.No.20512 of 2000 and 3022 of 2001, wherein interim stay was granted by this Court. Thereafter, respondent Board reconsidered its earlier decision to hold examination for internal selection and vide B.P.(F.B).No.59, dated 13.11.2001 dispensed with the examination. Thus, there being no intelligible differntia between persons selected through the process of internal selection and persons who are being redesignated and appointed as



Assistant Engineer (Electrical), the claim to the contrary by the respondents cannot be sustained.

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36. Further, the exclusion of Junior Engineer Grade I who are redesignated from being considered as forming part of the candidates selected through internal selection would leave such candidates high and dry, apart from being placed in a disadvantageous position leading to a situation where they may be required to work under a person who earlier was working in a different class e.g., Junior Engineer Grade II falling in Class II, Category 3 prior to being appointed as Assistant Engineer (Electrical) through internal selection.

37. Though it is contended that the Junior Engineer Grade-I like petitioner having opted to be redesignated as Assistant Engineer (Electrical) on their own volition, cannot question the process of internal selection, it is to be noted that the respondents by their regulations do not provide for any option for a candidate working as Junior Engineer Grade-I either to seek redesignation or take part in the internal selection process.



38. On the other hand, the mechanism of internal selection process put in place by the respondents, since, clearly excludes Junior Engineer Grade-I from being considered in the said process of selection, it cannot be said as if a candidate is left with any choice.

39. As the petitioner had sought for quashing of B.P.No.65 dated 12.08.1985, on the ground of inconsistency between sub (i) and (ii) and (iii) of Clause 3 thereof, for ease of reference, the same is reproduced herein below :-

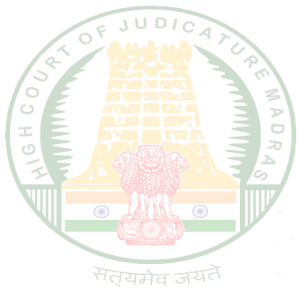
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Establishment—Junior Engineers I Grade—Redesignated as Assistant Engineers—Fixation of Inter-se seniority with the directly recruited and internally selected Assistant Engineers—Proposals—Approved.

B.P. Ms. (F.B.) No. 65 (Administrative Branch) Dated 12-8-1985,
Aadi 28, Kurothana,
Thiruvalluvar Aandu 2016.

Proceedings :

1. In the B.P. Ms. No. 402 dt. 18-3-1976, orders have been issued permitting the Supervisors I Grade (now Junior Engineer I Grade) in the three branches of (Electrical, Mechanical and Civil) who acquire B.E., Degree through part time course as Junior Engineer (now redesignated as Assistant Engineer). It was ordered in the said B.P. that the question of fixation of inter-se-seniority of the redesignated persons as Junior Engineers (now Assistant Engineers) with the directly recruited Junior Engineers (now Assistant Engineers) would be considered separately (ii) orders on this policy issued are yet to issue.
2. Pending decision of this policy from the year 1974, many Supervisors I Grade have been permitted redesignation as Junior Engineers (now called as Assistant Engineers) in the three branches of Electrical, Civil and Mechanical with intimation to them that the orders of their inter-se-seniority with the directly recruited Assistant Engineers will be decided later.
3. This subject has been examined and after taking into account the various aspects in detail and the cases filed by two redesignated persons in Civil Category and after careful consideration the Tamil Nadu Electricity Board issues the following orders :—
 - (i) Junior Engineers I Grade (previously called as Supervisors) who acquire an Engineering degree or it's equivalent getting redesignated as Assistant Engineers have to take their rank, in the category of Assistant Engineer with reference to their date of acquiring the qualifications and their past services as Junior Engineers (Supervisors) cannot be taken into account for the purpose of seniority in the category of Assistant Engineer.
 - (ii) Junior Engineers I Grade (previously called as Supervisors) acquiring an Engineering degree or it's equivalent getting redesignated as Assistant Engineers (previously called as Junior Engineers) be assigned rank below the last Assistant Engineer selected by the Tamil Nadu Electricity Board in that calendar year in which they acquired the qualification.
 - (iii) Selections by the Tamil Nadu Electricity Board means lists finalised through both the channels of direct recruitment and internal selection.
 - (iv) For purpose of deciding the calendar year in respect of directly recruited Assistant Engineers and internally selected Assistant Engineers the date of approval of the list by the competent authority be the criterion.
 - (v) If no selection is made by the Tamil Nadu Electricity Board to the category of Assistant Engineers in that calendar year, the Junior Engineers redesignated as Assistant Engineers shall be assigned rank below the last Assistant Engineer in the list last approved.
 - (vi) The orders of fixing the inter-se-seniority for a year should be issued in the month of January of the succeeding year.
 - (vii) The Junior Engineers I Grade who apply for redesignation as Assistant Engineer after acquiring the B.E. Degree or it is equivalent shall give an undertaking to the effect that they will not claim lien in the post of Junior Engineer/Electrical I Grade after their redesignation as Assistant Engineer.



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- (viii) Junior Engineers I Grade redesignated as Assistant Engineers shall become eligible for promotion as Assistant Divisional Engineers/Assistant Executive Engineers in their turn after their inter-se-seniority is fixed and after putting 3 years of experience, after acquiring the B.E. Degree or it is equivalent as per the amendment issued in S.R. 94 (a) in B.P. Ms. No. 114 dt. 19-3-1980.
- (ix) As the list of direct recruit Assistant Engineers in the year 1975 and that of internally selected in the year 1976 have been intermingled from a particular place due to the orders of Board then, to adopt the ratio of 1:1 in giving them posting in B.P. Ms. No. 1703 dt. 29-11-1979 and B.P. Ms. No. 242 dt. 21-2-1976 and seniority notified in C. E's Memo No. 183/14/81-1 dt. 12-1-1981 the redesignated Assistant Engineers in the Electrical branch who are to be placed next to the last person selected in the year 1975 may be placed below the two lists of 1975 and 1976 whose seniority has been intermingled in Memo No. 183/14/84-1 dt. 12-1-84 which would be slight deviation from the General principles proposed to be adopted.
- (x) The general orders now issued will apply to all the past cases of redesignations also.
- (xi) The redesignated Assistant Engineers in the Electrical branch who have already been promoted as Assistant Divisional Engineers in their original line of Junior Engineers/ Electrical I Grade itself will be continued without reversion as the ranking they will get in the post of Assistant Engineer will not be beneficial to them and their turn for Assistant Divisional Engineer in that line will take some more time. Hence a declaration from them should be obtained to the effect whether they opt to remain in the original category of Junior Engineer/Electrical I Grade or to come under the redesignated category of Assistant Engineer/Electrical with reference to the orders issued in this B.P. The option once exercised is final.
- (xii) In future Junior Engineers I Grade redesignated as Assistant Engineers shall furnish a declaration before issue of orders that they will continue in the redesignated posts and will forego their lien in their original category of Junior Engineer/Electrical I Gr.
- (xiii) As the inter-se-seniority already fixed to the redesignated persons in Civil category will have to be changed with reference to the principles now laid down, notice will be given to all the affected persons in this category.
- (xiv) As the two redesignated Assistant Engineers viz. S. Ramamurthi and S. Natesan in Civil branch who according to the existing rule will become eligible for promotion after putting 3 years experience after their acquiring the B.E. degree or it's equivalent challenged in the court that the said rule should not be invoked in their cases, the policy decision issued in these orders, are subject to the decision of the High Court on the writ petitions filed by them.
- (xv) The individual cases for fixing inter-se-seniority will be taken now only in the Electrical and Mechanical categories and for the persons in the Civil category the issue will be taken only after a decision is taken on the issues which are being examined separately.

(By Order of the Board)

C.K. Raghunath,
Chief Engineer (Personnel):



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40. It is settled position of law that Courts should be slow in quashing a provision or Rule or Regulations. Since, the BP.No.65 is issued in connection with the implementation of Regulations endeavour should be made to sustain its validity to the extent possible, by applying the principles of harmonious construction and contextual reading, with the aid of the Principles like “reading into” or “reading down”. It is only after such exercise is undertaken, still Court finds it difficult to sustain, the same can be struck down or quashed more particularly when the same is unconstitutional or over reading the rule or regulation itself.

41. Keeping the aforesaid principles in view, if BP.No.65 is examined, Clauses 1 and 2 thereof indicates that the same is issued in relation to fixation of inter-se-seniority between the redesignated Assistant Engineer vis-a-vis the directly recruited Junior Engineer (now Assistant Engineer).

42. Insofar as Sub clause (i) of clause 3 of BP.No.65 is concerned, the same is in two parts. 1st part states that Junior Engineer Grade I getting redesignated as Assistant Engineer have to take their rank in the category of Assistant Engineer with reference to their date of acquiring the qualification; and 2nd part of the sub-clause states that their past service as Junior Engineer



cannot be taken into account for the purpose of seniority in the category of Assistant Engineer. The natural corollary of the above prescription is that, from the date of redesignation as Assistant Engineer, the seniority would start to count like in the case of direct recruitee.

43. Sub Clause (ii) of Clause 3 of BP.No.65 states that the redesignated Assistant Engineer would be assigned rank below the Assistant Engineer selected by Tamil Nadu Electricity Board in that Calendar year. Thus, the word 'selected' is the bone of contention. The petitioner contended that the respondent by placing reliance on sub-clause(iii) have put the persons redesignated as Assistant Engineer below direct recruits and internal selection, thereby making sub clause (i) otiose and redundant. The respondent on the other hand by placing reliance on sub-clause(iii) contended that the same includes both the Direct Recruitment and Internal Selection. However, if one looks at the mode of recruitment as detailed in the regulation No.89(5) of the Regulations, the word 'selected' by Tamil Nadu Electricity Board can only be in relation to 'direct recruitment' and would not be applicable to 'internal selection' as there is no fixed procedure being in place. Further, this Court having now held that the redesignated Assistant Engineer would also have to be considered as 'internal selection'



only, the sub clause (iii) does not pose any difficulty or it cannot be said there exists any internal inconsistency between the sub clauses (i), (ii) and (iii) of clause 3 of B.P.No.65.

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44. Further, each of the sub clause is to be construed separately as independent of one another as they same are separated by a “full stop” and without any conjunction. If clauses are listed sequentially without conjunction by using the word 'or' or 'and' or 'semi colon', the natural interpretation should be to read and apply them in that order.

45. As detailed herein above, since, Regulation 92 and 97 of the regulations, and clauses in the B.P. No.65 dated 12.08.1985 if read in conjunction with each other, by giving plain meaning, it cannot be said that there is any inconsistency within sub clauses of B.P.No.65 or the same is contrary to Regulation 97 of the Regulations. Thus, the challenge of the petitioner to BP.No.65 on this ground has to fail.

46. Though on behalf of the respondents it is contended that the petitioner having been redesignated in the year 2009 is seeking to lay a challenge to the inter-se-seniority after a decade and as such the present writ



petition suffers on account of delay and laches, it is to be noted that the tentative seniority list in respect of the year 2007 was released by the 2nd respondent only on 18.07.2018 and the petitioner immediately thereafter having filed objection through proper channel on 23.08.2018 and the said appeal is stated to be pending till date without being decided, it is not open for the respondents to claim delay and laches in petitioner approaching this Court. Thus, the delay and laches if any are on the part of the respondent authorities in not disposing of the appeal.

47. Though as per Sub Clause (vi) of Clause 3 of BP.No.65, the respondent is required to issue orders fixing inter-se-seniority for a year in the month of January of the succeeding year. Thus for the year 2007, the tentative seniority list ought to have been issued in January 2008, for the reasons best known, the respondent having issued tentative seniority list in respect of the year 2007 only on 18.07.2018 and calling for objection and appeal to be filed there against, without deciding the said appeals like the one filed by the petitioner, have issued the proceedings dated 03.12.2018, making the said appeal filed against the tentative seniority otiose and redundant, thereby achieving the object of defeating the claims of the objectors like petitioner. Thus, the respondent cannot be allowed to claim



that it is too late in the day for the petitioner to dispute the tentative seniority list published by the respondents.

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48. Further, clause (d) of the Regulations 97 mentioned supra allows for filing application for the revision of seniority within a period of three years from the date of appointment to such service or within a period of three years from the date of order fixing seniority. Though, the respondents have appointed the petitioner as Assistant Engineer (Electrical) by redesignation in the year 2009, since, the seniority list as per Regulations 97(a) having been issued only on 18.07.2018, the filing of application by the petitioner on 23.08.2018 cannot be said as belated for it to be not considered. On the other hand, the respondent having not taken any decision on the appeal filed by the petitioner, cannot be allowed to plead to the contrary. Thus, the submission of the respondent regarding the delay and filing of appeal is rejected.

49. It is also interesting to note that the 2nd respondent while issuing the tentative seniority list sought to introduce two other classes of appointment other than internal selection and direct recruitments which do not find mention in regulation 92 i.e., compassionate appointment and



redesignation. Since, the regulations which has binding force recognises only two classes of appointment viz., Direct Recruitment and Internal Selection, the appointment of Assistant Engineer (Electrical) be it by way redesignation or compassionate appointment is to be invariably considered as internal selection for such candidates to be included in the list of candidates selected through internal selection based on their date of their acquiring Engineering qualification.

50. It is pertinent to note that a coordinate bench of this Court had an occasion to consider similar issue relating to inter-se-seniority among the direct recruits and candidates selected through internal selection in the case of *T.N.Rajan V. The Tamil Nadu Electricity Board, represented by its Chairman, Anna Salai, Chennai and others - WP.No.19596 of 2002 etc batch dated 31.08.2010*. This Court while frowning upon the approach of respondent in issuing Board Proceedings without amending the Regulations, however, dealing with BP.No.65 had held that as per sub Clause (iv) of Clause 3, the 'crucial date' would be the date of approval of the list by the competent authority.



51. It is also to be noted that a challenge was made to clause 3(ii) of BP.No.65 dated 12.08.1985 before this Court vide **WP.Nos.33602 and 33603 of 2007** and the said challenge was withdrawn subsequently on 18.09.2017.

52. In view of the conclusion arrived at by this Court as above, the respondents are directed to consider -

(i) the Junior Engineer Grade – I like the petitioner in the present case, redesignated as Assistant Engineer (Electrical) on acquiring degree in Engineering as falling in the category of candidates selected through internal selection;

(ii) the persons who have been redesignated as Assistant Engineer (Electrical) from Junior Engineer (Electrical) Grade I shall be given rank in the category of internal candidates based on date of acquiring the qualification; and

(iii) the respondents upon preparing the list of candidates selected through internal selection including Junior Engineer Grade I redesignated and appointed as Assistant Engineer



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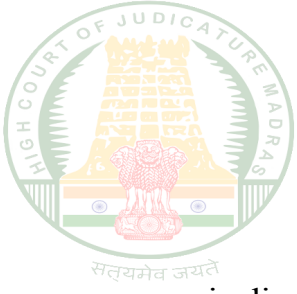
W.P.No.802 of 2018



(Electrical) as above, shall fix the inter-se-seniority among the candidates selected through internal selection and direct recruitment in the ratio of 1:1 in cyclic order as specified in Regulation No.97 of the Regulations.

53. Insofar as application / objections of the petitioner to the tentative seniority list dated 18.07.2018 is concerned, since, the petitioner had asserted of his application / appeal filed is pending till date before the 2nd respondent, the 2nd respondent is hereby directed to dispose of the aforesaid appeal/objections by passing a speaking order within a period of eight (8) weeks from the date of receipt of a copy of this order, in the light of the observation made herein above and communicate the order to the petitioner within a further period of one (1) week therefrom.

54. Insofar as further proceedings dated 03.12.2018 is concerned, since, this Court had vacated the interim stay granted initially on 25.03.2019, subject to outcome of the writ petition, the respondent shall act on the basis of the directions given herein above.



55. Subject to the above observations and directions, this writ petition is disposed of. No order as to costs.

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17.10.2025

Speaking order / Non-speaking order

Index : Yes / No

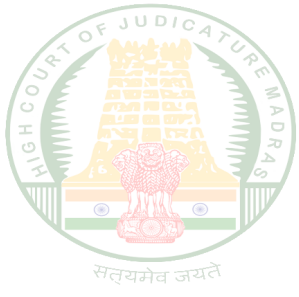
Neutral Citation : Yes / No

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To

1. The Chairman- cum-Managing Director
Tamil Nadu Generation and Distribution
Corporation Ltd, No.144, Anna salai,
Chennai-600 002

2.The Chief Engineer Personnel
TamilNadu Generation and Distribution
corporation Ltd,
No.144, Anna salai, Chennai-2



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W.P.No.802 of 2019



T. VINOD KUMAR, J.

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Pre-Delivery Order in

W.P.No.802 of 2019

17.10.2025