



W.P.No.16213 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.04.2025

CORAM:

THE HON'BLE MRS.JUSTICE.N.MALA

W.P.No.16213 of 2022
and WMP.No.15578 of 2022

1.S.Dinakaran

2.V.Nirmala

3.N.Theanmozhi

4.S.Vijayakumar ... Petitioners

Vs.

1.The Chairman-cum-Managing Director,
Tamil Nadu Generation and Distribution Corporation,
144, Anna Salai, Chennai – 600 002.

2.The Secretary,
Tamil Nadu Generation and Distribution Corporation,
144, Anna Salai, Chennai – 600 002. ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent in Letter No.50927/A22/A222/2017-10 dated 23.03.2020, to quash the same as illegal and consequently direct the 2nd respondent, to



W.P.No.16213 of 2022

notionally promote the petitioners to the post of Section Officers with effect from 01.03.2014, the date on which the similarly persons were promoted and pay all the consequential benefits to the petitioners.

For Petitioners : Mr.R.Karunagaran

For Respondents : Mr.K.Rajkumar

* * * * *

ORDER

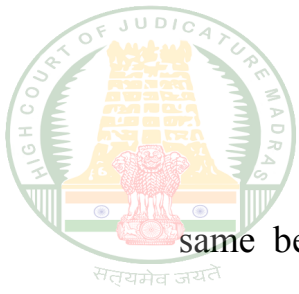
This Writ Petition is filed to call for the records of the 2nd respondent in Letter No.50927/A22/A222/2017-10 dated 23.03.2020, to quash the same as illegal and consequently direct the 2nd respondent to notionally promote the petitioners to the post of Section Officers, with effect from 01.03.2014, the date on which similarly placed persons were promoted and pay all the consequential benefits to the petitioners.

2.All the petitioners were initially appointed as Typist/Steno-typist in the year 1997, in the Tamil Nadu Electricity Board (now Tamil Nadu Generation and Distribution Corporation Limited) through Direct Recruitment and subsequently, promoted as Assistant Section Officer's (herein after called as ASO). The petitioners state that along with them some other persons were appointed as Typist/Steno-Typist, under the same



W.P.No.16213 of 2022

Recruitment and all of them, alongwith the petitioner's were promoted as ASO's. Whiles, the persons promoted as ASO's and working in some other branches like Administrative, Technical and Account Branches were given 2 to 3 promotions and moved from Class III Service to Class II Service. However, the petitioners and others who were working as ASOs in Secretariat Branch, for quite long were not promoted to the next promotional post for want of adequate vacancies in the said branch. Therefore, the petitioners stagnated in the post of ASOs, without any promotional opportunity. Considering the pathetic situation of ASOs, working in the Secretariat Branch, the Board decided to upgrade the post of certain ASOs as Section Officers. Accordingly, the respondents passed an order dated 24.02.2014, in (PER) CMD TANGEDCO Proceedings No.75, whereunder Sanction was accorded for upgradation of 17 posts of ASOs as Section Officers, in the office of the Secretariat Branch. All the officials were served with the proceedings in the year 2014. The petitioners state that under the said proceedings persons appointed as Typist/Steno-Typist under the same Recruitment and subsequently promoted as ASOs, along with them in the year's 2005/2006 were given upgradation as Section Officers, but for reasons unknown to the petitioner and for no fault of theirs they were denied the



W.P.No.16213 of 2022

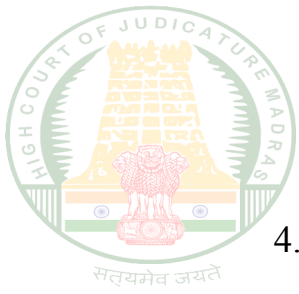
same benefit. Under the circumstances, the petitioners submitted a joint representation dated 01.03.2014, to the respondents, requesting them to extend the benefit of upgradation as Section Officer's given to similarly placed persons, to them also. Though the petitioners thereafter also submitted several representations, the respondents however, did not consider the same. The petitioners state that they are stagnating as ASOs for more than 12 years for want of adequate vacancies of Section Officers in their branch (i.e.) Secretariat Branch. The petitioners further state that some of them have meagre service left with no possibility of further promotion to them. According to the petitioners in their batch except them and 5 others, i.e., 10 ASOs, who had the qualification or the service in Class III level, no other person had the length of service and if, the petitioners are granted upgradation no further claims will arise. Therefore, according to the petitioners there was no impediment for the respondents to extend the benefit of upgradation as was done in the case of similarly placed ASOs in the year 2013. The petitioners earlier approached this Court in Writ Petition No.16810 of 2018, seeking upgradation as Sections Officers with effect from 01.03.2014, on par with similarly placed persons appointed in 1997 with all consequential benefits. This Court vide order dated 05.03.2019, directed the



W.P.No.16213 of 2022

first respondent therein, to consider the petitioners representation dated 21.02.2018, and pass orders on merits and in accordance with law, within a period of 12 weeks from the date of receipt of a copy of the order. Pursuant to the aforesaid order of this Court, the impugned order was passed by the respondents. Aggrieved by the impugned order the petitioners filed the above writ petition for the aforesaid relief.

3.The respondents filed a detailed counter in support of the impugned order. The respondents submitted that the request of the petitioners was not feasible as it would lead to numerous claims for similar relief. According to the respondents, the petitioners were subsequently promoted as Section Officer in 2018-2019, instead of from 2013-2014. The respondents stated that the decision to grant upgradation to 17 ASOs as Section Officers was taken as a one time measure and hence, the same could not be extended to the petitioners. The respondents stated that the respondents were facing severe financial crisis and hence there was no chance of upgrading the petitioners posts with effect from 01.03.2014. The respondents therefore submitted that the petitioners were not entitled for upgradation on par with the similarly placed persons and hence prayed for the dismissal of the writ petition.



W.P.No.16213 of 2022

4.I have heard both the learned counsels and I have perused the materials placed on record.

5.It is seen that the respondents taking into consideration that there were only 6 vacancies and the ASOs were stagnating in the said posts upgraded 17 posts of ASOs as Section Officers, whose names were included in the regular panel, for the post of Section Officer, as a one time measure on 01.03.2014. The respondents thereafter on 08.02.2016, vide proceedings No.30, Secretariat Branch, granted upgradation to ASOs viz., M.Anandan and P.Thirunavukarasu as Section Officer. It is seen from the list provided in the counter affidavit of the respondents that some of the ASOs who were upgraded as Section Officers either joined along with the petitioners or after the petitioners. Further, all 19 persons to whom the benefit of upgradation was given on the ground of stagnation were promoted as ASOs' during the year's 2003-2006 alongwith the petitioners. Therefore, the petitioners were similarly placed as the 19 persons who were given the benefit of upgradation on the ground of stagnation. The respondents state that the petitioners were subsequently promoted in the panel year 2018-2019, and the request of the petitioners for promotion from 01.04.2013, was not feasible because of the



W.P.No.16213 of 2022

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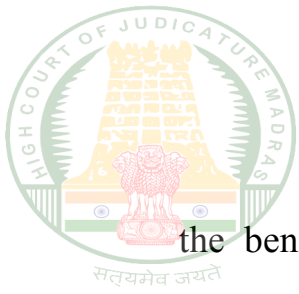
financial constraints. If the only reason for extending the benefit of one time upgradation to 19 ASO's was stagnation, I do not see why the same benefit should not be extended to the petitioners also, who are similarly placed. It is undisputed that the petitioners were also promoted as ASOs in 2006 itself. From the list provided by the respondents, it is seen that the persons who joined the Secretariat Branch of respondents along with the petitioners were given the benefit of upgradation whereas, the petitioners were denied the same. The respondents contend that extending the benefit to the petitioners retrospectively from 2013, would result in a substantial financial burden. In my opinion, such a concern cannot justify discriminatory treatment among similarly placed persons. For the same reason, the apprehension of the respondents that granting the petitioners request would open the door to numerous similar claims cannot be sustained. Factually also it is seen that only 10 ASOs', were fully qualified for upgradation during the relevant period i.e. from 01.04.2013. Except the petitioners out of the remaining persons, 3 retired on Voluntary retirement and one ASO passed away. Therefore, the concern of the respondents that allowing the claim of the petitioners would lead to a flood of similar claims is unfounded. From the petitioners Secretariat Branch, there is only one person left. In any event, it



W.P.No.16213 of 2022

is well settled in service law, that when a service benefit is extended to certain employees the same cannot be denied to similarly placed employees because it would be discriminatory and offend Article 14 of the Constitution. Useful reference in this regard can be made to the Judgment of the Hon'ble Supreme Court in the case of ***Raman Kumar and Others Vs. Union of India & Ors.*** reported in ***2023 Live Law (SC) 520***, decided in the context of regularisation of certain employees on completion of 10 years, depriving the said benefit to some others. In ***Ravi Verma and Others Vs. Union of India and Others (Civil Appeal No(s).2795-2796 of 2018) decided on 13.03.2018***, the Hon'ble Supreme Court, found that the act of regularizing the services of some of the employees and not regularizing the services of the others was discriminatory and violative of Article 14 of the Constitution of India. Though the above said cases relate to regularisation of service, the principles laid therein that similarly placed persons cannot be denied same benefits as it would be discriminatory and violative of Article 14 of the Constitution of India, squarely applies to the facts of the present case.

6.In the light of the above discussions, it is clear that the reasons stated in the impugned order are not sustainable. When the respondents extended



W.P.No.16213 of 2022

the benefit of upgradation to similarly placed persons on the ground of stagnation as one time measure, the same benefit ought not to be denied to the petitioners, as it would result in discrimination, and violation of Article 14 of the Constitution of India.

7.In the light of the above discussions, I find merit in the writ petition and the same is allowed. A direction is issued to the respondents to notionally promote the petitioners to the post of Section Officers with effect from 01.03.2014, the date on which similarly placed persons were promoted, and to pay all the consequential benefits to the petitioners, within a period of 12 weeks from the date of receipt of a copy of this Order.

8.Accordingly, this Writ Petition is allowed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

24.04.2025

Index : Yes / No

Internet : Yes / No

Speaking order/Non-speaking order
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NOTE: ISSUE ORDER COPY ON 30.04.2025



W.P.No.16213 of 2022

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To

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- 2.The Secretary,
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W.P.No.16213 of 2022

N.MALA, J.
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W.P.No.16213 of 2022

24.04.2025