IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.03.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.27950 of 2014
and
M.P.Nos.1 and 2 of 2014

V.Kannan Unni ... Petitioner

Vs.

1.The Chairman,
TNEB (TANGEDCO),
Anna Salai,
Chennai – 600 002.

2.The Chief Engineer (Personal),
TNEB (TANGEDCO),
No.144, Anna Salai,
Chennai – 600 002.

3.The Senior Personnel Officer (Recruitment),
TNEB (TANGEDCO),
No.144, Anna Salai,
Chennai – 600 002.

4.V.Meenakshamma
Deputy Financial Controller,
O/o.The Superintending Engineer Electrical,
Kanniyakumari EDC,
Kanniyakumari.

5.R.Sivakumar
Deputy Financial Controller,
O/o.The Superintending Engineer Electrical,
Mettur EDC,
Mettur.

6.Parvathy Swaminathan
Deputy Financial Controller,
O/o.The Superintending Engineer,
North Chennai Thermal Power Station II,
North Madras,
Chennai.

7.V.Sekar
Deputy Financial Controller,
O/o.The Superintending Engineer,
North Chennai Thermal Power Station II,
North Madras,
Chennai. ... Respondents

(R4 to R7 are impleaded as per order dated 04.02.2025 in W.M.P.No.19954 of 2020 in W.P.No.27950 of 2014)

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the entire records pursuant to the letter No.010360/G.30/G.301/2012-3 dated 14.12.2012 and the consequential orders in letter No.026089/670/G30/G302/2013-1 dated 23.03.2013, (Per.) CMD TANGEDCO PROCEEDINGS No.29 dated 23.03.2013 vide Memo No.029119/266/G30/G301/2013-14 dated 12.02.2014, letter No.014472/159/G.30/G.301/2014-3 dated 29.04.2014, order in (per.) CMD TANGEDCO Proceedings No.111 dated 23.07.2014 all on the file of 2nd respondent, quash all the same and re-fix the petitioner's seniority by listing him after Mrs.C.Grace Shanthi Joice in Seniority No.1685 and above C.Perumal Seniority No.1686A.

For Petitioner	:	Mr.A.Deivasigamani for Mr.G.B.Saravanabhavan
For Respondents	:	Mr.R.Nikkhilesh Athav for Mr.K.Rajkumar for R1 to R3 R4 to R7 Not ready

ORDER

This is the second round of litigation before this Court. Earlier, the Petitioner had approached this Court in W.P.No.5182 of 2012 for a Writ of Certiorarified Mandamus to call for the entire records of orders passed by the 2^{nd} Respondent in Orders/Letters in Lr.No.012028/G30/302/2011-18 dated 23.06.2011; Lr.No.012028/G302/2011-61 dated 19.12.2011 and Lr.No.012028/G30/G302/2011-84 dated 04.02.2012 and to quash all the aforesaid orders and consequently direct the Respondents to call for a fresh panel as per B.P.MS.CH.No.212 dated 12.06.1987 based on the crucial date 25.03.2011 and thereby to re-fix the Petitioner's seniority.

2. The claim of the Petitioner in the aforesaid Writ Petition was that the Petitioner was entitled to be promoted as an 'Assistant Accounts Officer' in the Panel Year 2010-2011. It emerges that the Petitioner did not have the requisite qualification for being promoted as an 'Assistant Accounts Officer' for the Panel Year 2010-2011 with the crucial date on 25.03.2010, as the Petitioner had obtained the B.Com Degree only on 30.12.2010. Paragraph No.3 of the said order captures the facts relevant to the said Writ Petition. It reads as under:

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

The said Writ Petition was dismissed with the following observations:-

> *"4.This Court has thoroughly considered the submissions made by the learned counsel for the petitioner and also perused the board proceedings B.P.Ms.(Ch)No.212 dated 12.06.1987, the*

letter dated 28.08.2010 and the proceedings dated 08.02.2011. No doubt in terms of B.P.Ms.(Ch)No.212 dated 12.06.1987, the penal is required prepared in the month of March every year. But, it is not mandatory that the penal should be finalized and promotion should be effected in the month of March every year.

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

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

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

3. The subject matter of challenge in this Writ Petition pertains to Panel Year 2011-2012 for the Panel for Promotion to the post of 'Assistant Accounts Officer' from the post of 'Accounts Supervisor' at the Respondent Department.

4. It is the case of the petitioner that the Respondents had not included the name of the Petitioner once again in the Panel for Promotion for the Panel Year 2011-2012 that was to be prepared on 25.03.2011 it being the crucial date inspite of the Petitioner having obtained the B.Com Degree as on 30.12.2010 and possessing the requisite qualification as on the crucial date 25.03.2011.

4A. Instead, the Petitioner's name was included only in the fresh panel for promotion prepared vide Letter dated 14.12.2012 based on the crucial date 25.03.2012. It is therefore submitted that name of the petitioner was belatedly considered for panel for promotion. On 23.03.2013 behind his juniors at the Respondent Department. Hence, the Petitioner has challenged the impugned orders pertaining to promotion to the post of 'Assistant Accounts Officer' for the Panel Year 2011-2012 as detailed below:

Sl.No	**Date**	**Board Proceedings/Letter No.**
1	14.12.2012	Letter No.010360/G30/G301/2012-3
2	23.03.2013	Letter No.026089/670/G30/G302/2013
3	12.02.2014	Memo No.029119/266/G30/G301/2013-4
4	29.04.2014	Letter No.014472/159/G30/G301/2014-3
5	23.07.2014	Letter No.066114/1188/G30/G302/2014-1

5. The learned counsel for the Respondents explained the stand in Paragraph No.8 of the Counter Affidavit which reads as under:

> *"8.I respectfully submit with reference to paras 8, 9 of the affidavit that 398 Accounts Supervisors were selected for promotion to the post of Assistant Accounts Officer in the panel approved on 08.02.2011 vide (Per.) CMD TANGEDCO Proceedings No.7 (Adm.Branch) for the crucial date 25.03.2010. However, the above 398 Accounts Supervisor have to be promoted in a phased manner based on the vacancies of Assistant Accounts Officer and financial implications of the Board. Accordingly, 148 Accounts Supervisors were promoted on 09.02.2011, 69 were on 23.06.2011, 97 were on 19.12.2011 and 9 were on 05.02.2012. The remaining persons were not promoted as the validity of the panel expired on 07.02.2012. I respectfully submit that the petitioner had completed the B.Com degree on 30.12.2010 and he is eligible for promotion only in the next crucial date."*

5A. It is submitted by the learned counsel for the Respondent that though 398 Accounts Supervisors were eligible for promotion to the post of 'Assistant Accounts Officer' on the crucial date of 25.03.2010, they were given promotion in a phased manner only during 2011 and 2012 against the available vacancy in the post of 'Assistant Accounts Officer'. Hence, the preparation of panel for promotion with the crucial date on 25.03.2011 was skipped and fresh panel for promotion to the post of 'Assistant Accounts Officer' with the crucial date 25.03.2012 was prepared.

6. I have considered the arguments advanced by the learned counsel for the Petitioner and the learned counsel for the 1st to 3rd Respondents.

7. It is evident that for the Panel Year 2010-2011, 323 persons were promoted to the post of the 'Assistant Accounts Officer' out of 398 persons, whose names were included in the Panel for Promotion for the Panel Year 2010-2011. The details of the number of persons promoted to the post of 'Assistant Accounts Officer' in the Panel Year 2010-2011 and the respective dates are as under:

Sl.Nos	*Date*	*No of Persons*
1	09.02.2011	148
2	23.06.2011	69
3	19.12.2011	97
4	04.02.2011	9
Total number of persons		**323**

8. From a reading of annexure copy of the consolidated vacancy list of the Respondents as on May 2010 filed by the Petitioner in Additional Typed

Set of documents, it is made clear that the aforesaid 323 persons were promoted to the post of 'Assistant Accounts Officer' against the vacancy of only 158 in the Panel Year 2010-2011.

9. Details of the vacancy as far as the post of 'Assistant Accounts Officer' is concerned for the month ending on 05/2010 is as under:

Tamil Nadu Electricity Board Consolidated Vacancy List of All Categories for the month ending 05/2010

Sl.No	***Name of Category***	***No. of Posts***		
		Sanctioned	Utilised	Vacant
50	Assistant Accounts Officer	313	155	158

10. Thus, as against the vacancy of 158 to the post of 'Assistant Accounts Officer' in the Panel Year 2010-2011, the Panel for Promotion was approved on 08.02.2011 and in a phased manner 323 persons were promoted to the post of 'Assistant Accounts Officer' from the panel for promotion for the Panel Year 2010-2011 as detailed in the above table. Thus, it is evident that there were no vacancies during the Panel Year 2011-2012 for the post of 'Assistant Accounts Officer' at the Respondent Department.

11. The Petitioner had completed the B.Com Degree only on 30.12.2010

and therefore was not eligible for promotion to the post of 'Assistant Accounts Officer' in the Panel for Promotion for the Panel Year 2010-2011 prepared with the crucial date as on 25.03.2010. Therefore, the petitioner was eligible for promotion to the post of 'Assistant Accounts Officer' only in the next panel year.

12. Even if a Panel for Promotion had been prepared for the panel year 2011-2012 with the crucial date as on 25.03.2011, no promotions could have been approved, as there were no vacancy to the post of 'Assistant Accounts Officer' for the panel year 2011-2012.

13. In this case, the next Panel for Promotion for the Panel Year 2012-2013 to the post of 'Assistant Accounts Officer' was prepared with the crucial date on 25.03.2012 and was approved on 23.03.2013. Thus, the Petitioner was promoted vide Promotion Order dated 23.03.2013 to the post of 'Assistant Accounts Officer' being at Sl.No.35 in the Panel for Promotion for the Panel Year 2012-2013. There are no merits in the present writ petition.

14. Therefore, this Writ Petition is liable to be dismissed and is accordingly dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

12.03.2025

Neutral Citation : Yes/No

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To

1.The Chairman,
TNEB (TANGEDCO),
Anna Salai, Chennai – 600 002.

2.The Chief Engineer (Personal),
TNEB (TANGEDCO),
No.144, Anna Salai,
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Deputy Financial Controller,
O/o.The Superintending Engineer Electrical,
Mettur EDC, Mettur.

6.Parvathy Swaminathan
Deputy Financial Controller,
O/o.The Superintending Engineer,
North Chennai Thermal Power Station II,
North Madras, Chennai.

7.V.Sekar
Deputy Financial Controller,
O/o.The Superintending Engineer,
North Chennai Thermal Power Station II,
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C.SARAVANAN, J.

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W.P.No.27950 of 2014
and
M.P.Nos.1 and 2 of 2014

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