IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On: 13.03.2025

Pronounced On: 21.05.2025

CORAM

THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P Nos.33075, 33085, 20908/2018 & 27483/2014
and WMP.Nos.24546, 24547, 38347, 38349, 38365, 38363 of 2018
and MP.No.1 of 2014

WP.No. 20908 of 2018

D. Sureshkumar,
S/o G. Dhanasekaran,
No.71/4, 6th Cross Street,
Bakkiyathammal Nagar,
Paadi, Chennai-50. …… Petitioner

Vs.

1.The Chairman cum Managing Director,
Tamilnadu Generation and Distribution
Corporation Limited, No. 144, Anna Salai,
Chennai-600 002.

2.The Joint Managing Director,
Tamilnadu Generation and Distribution
Corporation Limited, No.144, Anna Salal,
Chennai-600-002.

3.The Chief Engineer - Personnel,
Tamilnadu Generation and Distribution
Corporation Limited, No. 144, Anna Salai,
Chennai-600 002.

4.The Secretary,
Tamilnadu Generation and Distribution

Corporation Limited, No. 144,
Anna Salai, Chennai-600 002.

5.N. Mahendran,
Chief Financial Controller,
TANTRANSCO, NPKRR Maaligai,
No. 144, Anna Salai, Chennai-600 002.

6.B. Rajeswari,
Financial Controller (Cost),
NPKRR Maaligai,
No. 144, Anna Salai,
Chennai-600 002.

7.R. Krishnasamy,
Financial Controller,
NCTPS-III, Athipet Pudhunagar,
Chennai-600 120. .... Respondents

__Prayer:__ Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the Respondent, in connection with the impugned order passed by the 1st Respondent in (Per.) CMD TANGEDCO Proceedings No.239 dated 29.10.2012 and to quash the same as illegal, arbitrary and not maintainable and further direct the Respondents 1-3 to restore the seniority of the petitioner, in accordance with the TNEB Service Regulations and to consider his name for fixing at the appropriate place in the seniority list and to consider him for further promotion, with all attendant benefits and to grant such other or further reliefs, as this Hon'ble Court may deem fit and proper in the circumstances arising out of the case and thus render justice.

WP. No. 27483 of 2014

V.Balasubramanian
S/o K. Veerappapillai
Financial Controller
TANGEDCO
Mettur Thermal Power Station- II
Mettur Dam, Salem District. ... Petitioner

Vs.

1.Tamilnadu Generation and Distribution
Corporation Limited, rep.by its
Chairman cum Managing Director
10th Floor, No.144, Anna Salai, Chennai 600 002.

2.The Chief Engineer (Personnel)
Tamilnadu Generation and Distribution
Corporation Limited,
8th Floor, No.144, Anna Salai, Chennai 600 002.

3.The Secretary
Tamilnadu Generation and Distribution
Corporation Limited,
10th Floor, No.144, Anna Salai, Chennai 600 002.

4.Tmt. B.Rajeswari
Financial Controller (Accounts)
Tamilnadu Generation and Distribution
Corporation Limited,
7th Floor, No.144, Anna Salai, Chennai 600 002.

5.Mr. R.Krishnasamy
Financial Controller (Projects)
Tamilnadu Generation and Distribution
Corporation Limited,
5th Floor, No. 144, Anna Salai, Chennai 600 002.
6.Mr. C.S. Lakshmanan
Financial Controller
TANGEDCO

Tuticorin Thermal Power Station
Tuticorin. .... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of DIRECTION, directing the respondents 1,2 & 3 to revise the seniority of the petitioner, as recommended in Note File No. 042049/385/G.30/G.301/2013 of the respondents 2 & 3 dated 24.1.2014, on the basis of passing of 'Departmental Test for Accounts Officers' and on par with that of the 4th respondent and consequently award all service benefits as eligible to the petitioner, pending disposal of the above writ petition and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.

W.P. No 33085 of 2014

P.Subbulakshmi,
W/o. S.Ulaganathan,
Finance Controller,
Mettur Thermal Power Station-II,
Mettur – 636401,
Salem District. ... Petitioner

-VS-

1.The Chairman cum Managing Director,
TANGEDCO,
No.144, Anna Salai,
Chennai 600 002.

2.The Joint Managing Director,
TANGEDCO,
No.144, Anna Salai,
Chennai 600 002.
3.The Secretary, TANGEDCO,
No.144, Anna Salal,
Chennai 600 002.

4.Chief Engineer (Personnel), - TANGEDCO,
No.144, Anna Salai,
Chennai 600 002.

5.Malarvizhi
Chief Financial Controller - Revenue,
TANGEDCO, NPKRR Maaligai,
No.144, Anna Salai,
Chennai 600 002.

6.N.Mahendran,
Chief Financial Controller,
No.144, Anna Salai,
TANGEDCO NPKRR Maligai
Chennai 600 002.

7.V.Savitha, Financial Controller /General,
Office of the Chief Financial Controller/
General, TANGEDCO,
No.144, Anna Salai,
Chennai 600 002.

8.B.Rajeswari,
Financial Controller (Cost),
Office of the Chief Financial Controller/
Revenue, TANGEDCO,
No.144, Anna Salai,
Chennai 600 002.

9.V.Rajeswari
Financial Controller (Purchase),
Office of the Chief Financial Controller/
General, TANGEDCO,
No.144, Anna Salai,
Chennai 600 002.

10.K.Balakrishnan, Financial Controller,
North Chennai Thermal Power Station-I,
Attipattu Main Road, Attipattu,

Thiruvallur District – 600120

11.K.R.Srividhya,
Financial Controller,
Office of the Chief Financial Controller,
TANGEDCO, NPKRR Maaligai,
No.144, Anna Salai,
Chennai 600 002. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records of the 1 Respondent in relation to the impugned order dated 23.07.2013 vide Memorandum No.38763/A1/A12/2013-1 and quash the same as illegal and ultravires and consequently direct the 1 Respondent to revise the seniority as per TNEB Service Regulations together with the consequential monetary benefits payable to the Petitioner and pass appropriate orders as this Hon'ble Court may deem fit and proper in the circumstances and thus render justice.

WP. 33075 of 2018

T.Ranganathan,
S/o. K.V. Thiruvenkatachari,
Office of the Chief Financial
Controller/Revenue, TANGEDCO,
No.144, Anna Salai,
Chennai 600 002. ... Petitioner

-VS-

1.The Chairman cum Managing Director, TANGEDCO,
No.144, Anna Salai,
Chennai 600 002.

2.The Joint Managing Director,, TANGEDCO,
No.144, Anna Salai,
Chennai 600 002.

3.The Secretary, TANGEDCO,

No.144, Anna Salai,
Chennai 600 002.

4.Chief Engineer (Personnel),
TANGEDCO,
No.144, Anna Salai,
Chennai 600 002.

5.N.Mahendran,
Chief Financial Controller,
TANTRANSCO, NPKRR Maaligai,
No.144, Anna Salai,
Chennai 600 002.

6.V.Savitha, Financial Controller /General,
Office of the Chief Financial
Controller/General, TANGEDCO,
No.144, Anna Salai,
Chennai 600 002.
7.B.Rajeswari,
Financial Controller (Cost),
Office of the Chief Financial
Controller/Revenue, TANGEDCO,
No. 144, Anna Salai,
Chennai 600 002. .... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records of the 1st Respondent in relation to the impugned order dated 23.07.2013 vide Memorandum No.38763/A1/A12/2013-2 and quash the same as illegal and ultravires and consequently direct the 1 Respondent to revise the seniority as per TNEB Service Regulations together with the consequential monetary benefits payable to the Petitioner and pass appropriate orders as this Hon'ble Court may deem fit and proper in the circumstances and thus render justice.

For Petitioner in WP.Nos.33075 & 33085 of 2018	:	Mrs.Chitra Sampath, Senior counsel for Mr.T.S.Baskaran
For Petitioner in WP.No.27483/2014	:	Mr.R.Saravanakumar
For Petitioner in WP.No.20908/2018	:	Mr.S.Sivakumar
For RR 1 to 4 in all writ petitions	:	Mr.P.S.Raman, Advocate General assisted by Mr.K.Rajkumar, Standing counsel
For R8 in WP.No.33085/18 & RR4 to 6 in WP.No.27483 of 2014, R7 in WP.No. 33075/2018 & RR5 to 7 in WP.No.20908/2018	:	Mr.Balan Haridas
For R5&R6 in WP.No.33075 of 2018 & RR 5 to 7, 9 to 11 in WP.No.33085/2018	:	No appearance

COMMON ORDER

These writ petitions have been filed challenging the impugned order passed by the 1st Respondent in (Per.) CMD TANGEDCO Proceedings No.239 dated 29.10.2012 and the impugned Memorandum No.38763/A1/A12/2013-1 dated 23.07.2013 with a direction to the respondents 1 to 3 to revise the seniority of the petitioners, as per the recommendations of the Note File No. 042049/385/G.30/G.301/2013 of the respondents 2 & 3 dated 24.1.2014 on the basis of passing of 'Departmental Test for Accounts Officers' and on par with the 4th respondent and consequently award all service benefits as eligible to the petitioners pending disposal of the above writ petitions.

2. Heard Mrs.Chitra Sampath, learned Senior counsel for the petitioner in WP.Nos.33075 & 33085/2018 ; Mr.R.Saravanakumar, learned cousnel for the petitioner in WP.No.27483/2014 and Mr.S.Sivakumar, learned cousnel for the petitioner in WP.No.20908/2018 ; Mr.P.S.Raman, learned Advocate General appearing for TANGEDCO and Mr.Balan Haridas, learned counsel for the private respondents and perused the material available on record.

3. The petitioner in WP.No.20908 of 2018 has filed the writ petition to call for the records of the impugned order dated 29.10.2012 issued by the 1st Respondent in (Per.) CMD TANGEDCO Proceedings No.239 and quash the same and direct the respondents 1 to 3 to restore the seniority of the petitioner and place him in an appropriate place in the seniority list, and to consider him for further promotion and other attendant benefits. The proceedings of the 1st Respondent in (Per.) CMD

TANGEDCO Proceedings No.239 dated 29.10.2012 restored the seniority of the 6th respondent [B. Rajeswari] by placing her at the sl. no. 3-A above Ranganathan and below V.Savitha in BP[Ch.] No. 206 SB dated 29.11.2004. The petitioner has entered into service as Assistant Accounts Officer [AAO] in the Tamil Nadu Electrical Board on 12.07.2000; he was sponsored through the employment exchange and reported for duty on 12.07.2000. He was subsequently promoted to the post of Accounts Officer in the year 2005 and thereafter, he was promoted to the post of Deputy Financial Controller in the year 2007 and was further promoted as Financial Controller in the year 2014.

4. As per the Tamil Nadu Electricity Board Service Regulations**,** those who have entered into service as Assistant Accounts Officer or Accounts Officer by direct recruitment should pass the Departmental Test within a period of three years of probation or at least within the time of extension of probation, if any. Without a pass in the departmental examinations, no person is entitled to be promoted to the next category.

5. The maximum period for which the probation can be extended is only for a further period of 2 years. So the total qualification period that will be available for probation is only 3 years plus 2 years extension, which is equivalent to 5 years. The petitioner had completed the departmental exam on 23.12.2004 within the prescribed time limit and became qualified for promotion as per the Service Rules. However, by violating the conditions, the official respondents had promoted the respondents 5 and 7 and re-fixed the seniority of the 6th respondent without giving any opportunity to make any representation by the affected parties. The petitioner has also given a representation to the respondents to restore the original seniority in the promoted category, but the same was not accepted.

6. The learned counsel for the petitioners submitted that the respondents 5 to 7 did not complete the departmental test within the prescribed time limit and hence they are not entitled to get promotion; and even if they had passed the departmental test later, their seniority cannot be restored by keeping them above the petitioners; even if the private respondents had any objection to the original seniority of the promoted category, they should have challenged it within 3 years, but they have not done the same.

7. The learned counsel for the Respondents 1 to 3 submitted that the proceedings of the 1st Respondent in (Per.) CMD TANGEDCO Proceedings No.239 dated 29.07.2012 had become final and on that basis, the 6th respondent was promoted to the post of Financial Controller through the proceedings dated 20.03.2013. These writ petitions have been filed 14 years after the issuance of the Board Proceedings issued in BP.CH.No.206 SB dated 29.11.2004 and 6 years after the issuance of proceedings of the 1st Respondent in (Per.) CMD TANGEDCO Proceedings No.239, dated 29.10.2012. So, it is claimed that these writ petitioners are seeking relief by delay and laches.

7.1. The seniority of the respondents 6 and 7 has been finalised as early as on 29.11.2004 and the proceedings No. 239 restored only the original seniority of the 6th respondent. Thereafter, the petitioners did not give any representation from 29.11.2004, on which date the seniority was revised. The petitioner had not challenged the promotion of the 6th respondent also**.**

7.2. The respondents 6 and 7 were selected to the post of Assistant Accounts Officer [AAO] by direct recruitment during the year 1997. The petitioner in WP.No.20908/2024 had entered the service of TANGEDCO only on 12.07.2000. The seniority in respect of the respondents 6 and 7 was fixed on the rank obtained by them in the selection list. The petitioner herein was selected in the subsequent batch, and therefore, he cannot claim any seniority over the respondents 6 and 7. In fact there are other persons by name V. Savitha and R.Rajeswari, K. Balakrishnan and K.R. Sri Vidhya, who were also appointed along with the respondents 6 and 7 to the post of Assistant Accounts Officer [AAO] and they had passed their account test on 23.12.2004, after the second promotion to the post of Deputy Financial Controller. But those persons were not added as parties to these writ petitions.

7.3. The appointment order of the respondents 6 and 7 does not stipulate that they should pass the accounts test. The probation was declared after the completion of 2 years of service as Accounts Officer. The 6th respondent was appointed in the year 2006, i.e., six years later and as she was asked to take-up an accounts test. She immediately cleared the same during May 2006, and the 7th respondent cleared the accounts test during December 2006. When they have a professional background in Accounts, the departmental Account test can be of no consequence in discharging their duties. Even the petitioner has also passed the account test after 4 years from the date of her joining as an Account Officer.

7.4. The 6th respondent went on extraordinary leave from 08.03.2001 and 28.1.2006 for a period of 5 years for taking foreign employment at Malaysia. When her batch mates have got two promotions to the post of Account Officer in the year 2001 and Deputy Financial Controller in the year 2015, the name of the 6th respondent was excluded, as she was on leave. On 01.03.2006, she joined in the post of Assistant Account Officer, and in May 2006, she passed the account test. On 19.12.2007, the 6th respondent was promoted to the post of account officer and later to the post of Deputy Financial Controller on 29.4.2009.

7.5. One year mandatory service for promotion, for employees returning after availing leave for a period of three or four years or more continuously for any reason except for higher studies and as proposed in BP.No.7 dated 30.1.2001 was relaxed thorugh B.P.No.5 dated 11.2.2010. As per the said amendment, the TANGEDCO issued proceedings No. 239 dated 20.9.2012 by restoring her original seniority. Thus the 6th respondent was promoted to the post of Financial controller as on 30.3.2013 and to the post of Chief Financial Controller on 30.12.2020.

7.6. With regard to 7th respondent, he is the Associate Member of the Institute of Chartered Accounts of India, New Delhi. He is also a graduate in B.com and a Post Graduate in M.com. He was directly recruited to the post of Assistant Accounts Officer [AAO] in the year 05.06.1997 along with 8 others and he was ranked in Sl.No.5. The very same rank was obtained by him in the selection process and he was promoted to the post of Assistant Officer [A.O] on 6.11.2001. The 7th respondent was again promoted to the post of Account Officer by order dated

28.06.2006 and time was given for him to complete the accounts test. The 7th respondent joined in the post of Accounts Officer on 04.10.2006 and passed accounts test in December 2006 and he was promoted to the post of Deputy Financial Controller on 14.09.2007. His name was also included in the promotion panel for the post of Chief Financial Controller.

7.7. The promotion of the 6th and 7th respondents before passing the Accounts Test was regularised by the Regulations of TANGEDCO proceedings No.7 SB dated 02.03.2019. Hence there is no illegality in placing the private respondents 6 and 7 in their original seniority in the post of Assistant Account Officer[AAO].

8. The writ petition in WP.No.27483/2014 has been filed to direct the revised seniority of the petitioner as recommended in the file notes No.7 dated 24.01.2014. The file notes dated 24.01.2014**,** has been prepared for issuing directions to revise the seniority of the petitioner in accordance with the regulations.

9. The learned counsel for the respondent submitted that the writ petition is hit under Regulation 97(d) which prescribes 3 years time limit to challenge the fixation of seniority; promotion of the 4th respondent to the post of Account Officer, Deputy Financial Controller and Financial Controller was much prior to the petitioner and the promotion given to the 4^{th} respondent was not questioned by the petitioner. It is further submitted that the file notes cannot be relied, as they are only internal communications. He further submitted that the file notes had been overruled by the subsequent proceedings of the Corporation and the petitioners have not questioned the same and that the petitioner had retired long ago and so the petition has become infructuous.

10. The Writ Petitions in W.P.Nos. 33075 /20158 and 33085 of 2014 have been filed to call for the records of the impugned order dated 23.07.2013 vide Memorandum No.38763/A1/A12/2013-1 and quash the same as illegal and consequently direct the 1^{st} Respondent to revise the seniority as per TNEB Service Regulations together with the consequential monetary benefits payable to the Petitioners .

11. By the order dated 23.07.2013, vide Memorandum No.38763/A1/A12/2013-1, the 1^{st} respondent has rejected the request of the petitioners to revise the seniority. It is the claim of the petitioners that the seniority of the private respondents cannot be restored to their original position as they did not pass the accounts test before getting their promotion and within the maximum time prescribed for probation including the time for extension of probation.

12. The learned counsel for the respondents submitted that even if the petitioners are affected due to revision of seniority, they ought to have raised objections within 3 years as per the regulations 97 (d) of the service regulations and hence the petitions itself are not maintainable.

DISCUSSION:

13. Even though all the four petitioners have claimed relief in different manner, they only revolve around a same issue as the base for the reliefs.

14. The limited contention of the petitioners is that the petitioners have cleared the departmental accounts test much earlier than the private respondents and hence, their seniority in the promotional cadre ought not to have been disturbed. One of the petitioners has already filed a writ petition in W.P.No.19695/2013 for seeking a writ of mandamus to consider the representation dated 17.01.2013 of the petitioner in the matter of promotion and seniority and got a direction. The second respondent rejected the petitioner's claim for revision of seniority by its order dated 02.05.2014. The W.P.27483/2014 has been filed challenging the same.

15. As per the Tamil Nadu Electricity Board Service Regulation 95(a), every person initially appointed to the entry level post like Accounts Officer shall be on probation for a total period of 2 years on duty within a continuous period of 3 years. However the same can be extendable for a period of further 2 years, totally for 5 years. As per the Regulation 96(1)(a) the directly recruited Assistant Accounts Officer and Accounts Officer shall pass the departmental accounts test within the period of probation if he has not passed the test already.

16. As per regulation 95(g), if the departmental test was not passed within a maximum period of 5 years, he shall be reverted and the qualified eligible junior shall be considered for promotion. The respondents 5 and 6 have been promoted as Accounts Officers and Deputy Financial Controller. Even though they did not pass the Departmental Account Test, the authorities appeared to have invoked Regulation 106, which allows temporary promotion during emergency situations and promoted them.

17. Even then, the candidate considered for promotion ought to have got the required qualification for promotion. The private respondents who have passed the account test later than the petitioners have been given with the seniority in the promotional post commensurate with their seniority in the feeder cadre posts. The petitioners claim that they were qualified by passing the departmental test before the private respondents and hence the private respondents shall not be placed above them in the promotional seniority.

18. The petitioners have also stated that one of the private respondents by name B.Rajeshwari was on Extraordinary leave from 2001 to 2006 and she cleared the departmental account test only in the year 2006, beyond 5 years of the maximum time for probation and her seniority has also been protected by giving her the benefit of notional promotion.

19. It is claimed by the petitioners that the promotions so given to persons who passed the accounts test later than the petitioner were illegal, arbitrary and influenced by favouritism within the administrative structure of the corporate. The file notes were seen to have been prepared by referring the regulations but they have been ignored and the promotions were given to persons who did not pass the departmental test on the date of promoting the petitioners. This has created heat burns among persons who were juniors but acquired the qualification for promotion earlier than the seniors by passing the departmental examinations. In view of having the advantage of fulfilling the qualification requirement for promotion, the petitioners could get their promotion earlier than their seniors.

20. For the reasons best known to the authorities, the file notes were not considered either for acceptance or for rejection and it has been simply overlooked or kept in the cold storage. If regulations are not meant to be followed or meant to be followed only to the subjective satisfaction of the superior authorities, that will frustrate the whole object of formulating them. Persons like petitioners who firmly believed the regulations and got qualified for early promotion will be betrayed, if persons who did not mind to follow the regulations are rewarded. Unchecked violations of regulations in the matter of promotion not only demoralise the work force, but will also damage the image of the institution and affect the productivity of the man power.

21. It is the contention of the respondents that the seniority of the private respondents' has been restored only because they have cleared the department test and that the petitioners did not raise objection to the fixation of seniority within a period of 3 years time prescribed under regulation 97(d).

22. A writ petition filed by similarly placed persons by raising the same points in WP.No.32953/2022 has been dismissed by a Co-ordinate Bench on 01.09.2023 by citing the reason of limitation under regulation 97(d). It is observed in the above order also that there were some violations in the matter of promotion. A tabulation showing the name of the persons appointed as account officers, their date of joining, and date of passing their account test etc., also formed part of that order and the same is relevant for the issue involved in these petitions also and hence it is given below:

Sl. No	Name of the person (All are appointed as Assistant Accounts Officer)	Date of joining in Board Service	Date of Passing the (AO) Special Test	No. of years after whcih test passed.
1	N.Mahendran	04.12.1997	24.05.2005	7
2	V.Savitha	17.12.1997	23.12.2004	7
3	B.Rajeswari	17.12.1997	24.05.2006	8
4	V.Rajeswari	06.12.1997	23.12.2004	7
5	K.Balakrishnan	03.12.1997	23.12.2004	7
6	K.Srividhya	05.06.1998	23.12.2004	6
7	R.Krishnasamy	22.12.1997	23.12.2006	9
8	C.S.Lakshmanan	20.07.2000	23.12.2005	5
9	V.Balasubramanian	19.07.2000	23.12.2003	3
10	K.Dhanalakshmi	04.08.2000	24.05.2004	3
11	V.Kasi	02.08.2000	23.12.2004	4
12	D.Sureshkumar	12.07.2000	23.12.2004	4
13	N.Prabakaran	22.07.2000	24.05.2005	4
14	R.Ahila	27.07.2000	24.05.2005	4
15	S.Sumathi	30.06.2000	23.12.2005	5

23. It appears from the order passed in WP.No.32953/2022 that the court was not informed about these pending writ petitions out of which one has been filed in the year 2014 itself. In fact the Writ petition in W.P. 27483/2014 has been filed on the basis of the file notes of the year 2014 and for challenging the order dated 02.05.2014 which rejected the representation of the petitioner to re-fix the seniority according to the rules. In fact the order dated 02.05.2014 came to be passed subsequent to a direction given by this court in W.P.(MD) No.19695/2013. So the matter was being agitated from the year 2013 onwards and not just in the year 2022 by filing the writ petition on W.P. No.32953/2022.

24. Some of the Assistant Account Officers including the private respondents who did not pass the departmental test within the period of probation and as on the crucial date of 20.04.2005 have not been included in the panel of the year 2005 for promotion to the post of Account Officer. However, on their representation they have been included in the panel with their original seniority subject to the condition that they should pass the departmental test within one year from the date of publication of the panel dated 28.06.2006. And an order to this effect has been passed by the Chairman of TNEB on 28.06.2006 in B.P. (Ch) No.124 (Adm. Branch) dated 28.06.2006.

25. Though it is claimed by the respondents that these order has not been challenged, it is also seen that the approval of the board had not been obtained. So the order of the Chairman can only be taken as ineffective. In the impugned order there is no reason given as to why the rules have been violated or whether the rules were relaxed in favour of certain respondents. Despite the file notes have been rightly prepared in the year 2014, the impugned order dated 02.05.2014 does not make any reference about the file note. And no order also has been on the file by assigning any reason or by confirming that the Board has approved the orders of the B.P. (Ch) No.124 (Adm.Branch) dated 28.06.2006. The order dated 02.05.2014 is cryptic and it does not address the concerns raised by the petitioners and without making any reference to the file opened in this regard.

26. The order dated 23.07.2013 is subjected to challenge in both the writ petitions in W.P.33075 and 33085/2018. In the said order the representation of the petitioners objecting the inclusion of the private respondents for promotion to the post of Deputy Financial Controllers has been rejected. It is stated in the said order that their inclusion has been made subject to the condition that they should pass the Accounts Officer Test within a period of one year from the date of publication of the panel and that the application for revision of seniority has to be given to the appointing authority within a period of 3 years.

27. It has not been mentioned in the order as to the date on which the seniority has been released. It appears that the Annual list of officers is being released every year. It is seen from the Annual list of Class – I officers as on 01.01.2012 also it has been cautioned that the said list is only an establishment list and not a seniority list of officers and it shall not be treated as a document conveying authority in respect of pay and allowances or seniority. So, before rejecting any representation on seniority on the ground of limitation of three years, it ought to be mentioned when the seniority in question has been first released by inviting objections from the officers.

28. So far as the other reason is concerned it has been stated already that the orders issued by the Chairman for granting one year from the date of publication of the panel for promotion for passing the departmental test has not been approved by the board.

29. The Writ Petition in W.P.No.20908/2018 has been filed challenging the order restoring the original seniority of Tmt.B.Rajeshwari dated 29.10.2012, who had been on Extra ordinary leave due to employment in abroad from 3/2001 to 2/2006.

30. The primary contention of the petitioner is that even the said B.Rajeshwari has not completed the departmental test within the maximum period of probation and she had cleared the test only during May 2006, which is after 8 years of her service. The said fact was not denied by the official respondents. But in the impugned order dated 29.10.2012 a reference has been made to the (Per) B.P.5 dated 11.02.2010 in favour of B.Rajeshwari.

31. Earlier, One year mandatory service for promotion for employees returning after availing leave for a period of three or four years or more for any reason except for higher studies has been prescribed in BP.No.7 dated 30.1.2001 and it is seen under regulation 98(bb). On 11.08.2008 a proceeding was issued in B.P.30 to omit the same. So there was no one year service condition for those persons who go on long leave to abroad. But again the proceedings have been issued in B.P.5 dated 11.2.2010 to clarify that the above relaxation is applicable only to those who have secured their employment abroad in the connected subject area or engineering activity.

32. There is no quarrel that B.Rajeshwari had gone on employment at abroad in the connected subject area. But while she was in India prior to her abroad assignment, she has not cleared the departmental test. So it is claimed by the petitioner that her seniority cannot be restored to her original seniority. In fact the file notes of the year 2014 also made a mention about this fact. But the same has not been discussed in the impugned order.

33. But in the year 2020, the Board itself has approved the promotions given to the post of Account Officer without passing the accounts Officer test in its 97th Board meeting dated 16.12.2020. The Writ Petition filed challenging the above approval in W.P.32953/2022 has been dismissed on 01.09.2023. So the petitioners have lost the hold on the file notes of the year 2014, which stated about the non-approval of the order issued by the Chairman, for including the names of the persons who did not clear the account test in the promotional panel with a condition that they should pass the account test within a year from the release of the panel.

34. Now everything boils down to the approval given by the board for such promotions given to persons who did not have the required pass in the department test, which had given them the advantage of having their original seniority not affected. Had these writ petitions have also been tagged along with the writ petition filed later in W.P.32953/2022, it would have been advantageous to these petitioners. Now in view of the approval given by the Board, the claims made by the petitioners have almost become infructuous.

35. In the order dated 01.09.2023 in W.P.32953/2022, the court has made a mention that there are violations of rules in the matter of promotion. But it is held that the petitioner did not challenge the seniority within 3 years of its issuance and the claim is found to have been affected with delay and laches.

36. The petitioners have come to court even in the year 2013 and have challenged the order passed on 02.05.2014 and there is no mention as to the date of issuing the list of seniority. The respondents could have considered the claim of these petitioners in the light of the file notes prepared in this regard. But the approval of the board has overlooked every claim of these petitioners and it has crystallised the rights of the parties in respect of the promotions given to their officers in accordance with their original seniority. In view of the same, all the claims raised in these writ petitions become infructuous.

37. Under such circumstances, it is up to the petitioners to seek permission to file appeal against the order dated 01.09.2023 made in W.P.32953/2022 with a petition to condone the delay in filing the appeal and raise all the grounds now made in these writ petitions, if they are still aggrieved and so advised.

38. With the above observation, these Writ Petitions in W.P.27483/2014, W.P. 20908/2018, W.P.33075/2018 and W.P. 33085/2018 are **disposed** as infructuous. No costs. Consequently the connected miscellaneous petitions are also closed.

21.05.2025

Index : Yes /No
Internet: Yes/No
Speaking/Non- Speaking
Neutral: Yes/No

jrs

To

1.The Chairman cum Managing Director,
Tamilnadu Generation and Distribution
Corporation Limited, No. 144, Anna Salai,
Chennai-600 002.

2.The Joint Managing Director,
Tamilnadu Generation and Distribution
Corporation Limited, No.144, Anna Salal,
Chennai-600-002.

3.The Chief Engineer - Personnel,
Tamilnadu Generation and Distribution
Corporation Limited, No. 144, Anna Salai,
Chennai-600 002.

4.The Secretary,
Tamilnadu Generation and Distribution
Corporation Limited, No. 144,
Anna Salai, Chennai-600 002.

R.N.MANJULA, J.
jrs

Pre Delivery Common Order in
WP.Nos.33075, 33085, 20908/2018 & 27483/2014

21.05.2025