



W.A.(MD)No.960 of 2025

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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DATED : 08.08.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN  
and  
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

**W.A.(MD)No.960 of 2025  
and  
C.M.P.(MD)No.6093 of 2025**

1.The Chief Engineer/Personnel,  
Tamil Nadu Generation and Distribution  
Corporation Limited,  
Administrative Branch,  
No.144, Anna Salai,  
Chennai - 600 002.

2.The Superintending Engineer / Purchase  
and Administration,  
Tuticorin Thermal Power Station,  
Tuticorin.

... Appellants

*(Cause title is accepted vide order dated  
15.12.2024 made in C.M.P.(MD)No.17418 of  
2014 in W.A.(MD)No.SR64777 of 2024 by  
MSRJ and ADMCJ)*

Vs.

C.Jebaraj Antony

... Respondent

**Prayer :** Writ Appeal filed under Clause XV of Letters Patent, to allow the writ appeal by setting aside the order passed in W.P.(MD)No.19227 of 2021 dated 27.09.2023 on the file of this Court.



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For Appellants : Mr.B.Ramanathan

For Respondent : Ms.K.Gandhiammal

**JUDGMENT**  
**(By G.R.SWAMINATHAN, J.)**

Heard both sides.

2.TANGEDCO is on appeal challenging the order dated 27.09.2023 passed by the learned Single Judge allowing W.P.(MD)No.19227 of 2021 filed by the respondent herein.

3.The respondent herein joined Tuticorin Thermal Power Station as a contract labour in the year 1995. Subsequently, he was absorbed as a Helper on 01.05.1999. He was promoted to the post of Fitter Grade II on 07.04.2015. The respondent subsequently wanted appointment as Junior Assistant by way of transfer of service. His request was rejected by the first appellant vide memo dated 08.04.2021. It was put to challenge in W.P.(MD)No.19227 of 2021. The learned Single Judge allowed the writ petition in the following terms:-



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*“15.In the case in hand, the Board proceedings resolved by the respondent Board regulates the recruitment and conditions of service of the employees of the respondent Board. However, the same has to be implemented uniformly for all the employees. When the discrimination is so palpable in the case of the appointment of Junior Assistant by rejecting the petitioner and recruiting similarly placed persons namely S.Mariappan, D.Jeyakumar and R.Natarjan, the legitimate expectation of the petitioner has been concretely defeated by the arbitrary exercise of powers by the respondents.*

*16.No doubt an employee has a right to be considered for promotion though he cannot claim promotion as a matter of right, every employee has a right to be considered for promotion under Article 16 to a higher post subject to eligibility provided he is within the zone of consideration. But the question is as to the manner in which his case is to be considered. This aspect is a matter of considerable importance in service jurisprudence, as it deals with fairness “in the matter of consideration for promotion under Article 16”. Under Article 16 of the Constitution, the right to be considered for promotion is a fundamental right. It is not the mere consideration for promotion that is important, but the consideration must be fair according to the established principles governing service jurisprudence. No doubt, the petitioner was well within the zone of consideration along with similarly placed persons, namely S.Mariappan, D.Jeyakumar and R.Natarjan, when his name was finalised in the list of candidates from among Regular Work Establishment Cadre and Provincial Cadre (Office*



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*Helper and Record Clerk) for selection and appointment to the post of Junior Assistant/Accounts by internal selection.*

*17.However, when the case of the promotion of the petitioner and the similarly placed persons were considered, the aspect of fairness has been put to question. The Courts will not normally interfere with the assessment made by the selection authorities unless the aggrieved employee establishes that the non-promotion was bad according to Wednesbury principles, or it was mala fide. It is needless to state in the case in hand, the entire selection process is blatantly and explicitly arbitrarily, discriminatory and the rejection of the petitioner's candidature to the post of Junior Assistant/Accounts in the year 2007 is vitiated by mala fide. The reasons putforth by the respondent authority after a period of 14 years ie., on 08.04.2021 vide impugned order is tainted with mala fides and the same establishes that non-promotion of the petitioner was bad. Hence, I have no hesitation in concluding that the petitioner's fundamental right to be considered for promotion has been badly defeated by the discriminatory and arbitrary exercise of power by the respondent Board. The continuous unfair treatment meted out to the petitioner by the respondent Board pre-eminently makes it fit, requiring, to quash the impugned order and issue appropriate orders.*

*18.That apart, the reasoning of the first respondent Board in the impugned order stating that the petitioner who has been working in a technical post for more than 20 years could not be considered for Junior Assistant/Accounts without much service in*



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*the initial cadre of Junior Assistant and Assistant in Accounts wing seems to be without application of mind. This Court is inclined to acknowledge that the petitioner has passed the departmental examination conducted by TNPSC in the month of May, 2011. That apart, he has passed Accountancy (Junior Grade) Technical Examination in the month of August, 2014, Accountancy (Senior Grade) Technical Examination in the month of August, 2017, passed department test of Accounts Officer Papers I and II examination conducted by the first respondent on 06.01.2019 and departmental tests in November, 2018. In furtherance to the same, from 2013 to 2015, he worked in Accounts Wing I and thereafter, from the year 2016 till date, he has been working in Accounts Wing II. Hence, I have no hesitation in holding that he is eligible for the post of Accounts Officer and also he has the required qualification in view of passing all the relevant examinations pointed out supra.*

*19.In the result, this Court hereby quashes the impugned order, dated 08.04.2021 and thereafter, remand the case of the petitioner back to the file of the first respondent/the Chief Engineer/Personnel, Tamil Nadu Generation and Distribution Corporation Limited, Chennai and consequently direct the first respondent to appoint the petitioner for the post of Junior Assistant/Accounts by internal selection with effect from 23.07.2013 with all service benefits and consequential promotion, service and all attendance and monetary benefits thereof that is from the date on which S.Mariappan and D.Jeyakumar were appointed to the post of Junior Assistant.”*



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Questioning the same, this writ appeal has been filed.

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4.The question that calls for consideration is whether the learned Single Judge was right in granting relief to the writ petitioner.

5.The learned standing counsel for TANGEDCO draws our attention to the Board Proceedings No.38 Administrative Branch dated 23.05.1986. Clause 3(v) of the said Board Proceedings reads that the candidate holding N.T.C. / N.A.C. recruited as Helper shall not be eligible for internal selection to the post of Junior Assistant and Typist including Steno-Typist. The validity of the said proceedings was upheld by the Hon'ble Supreme Court in S.L.P.19266 of 2016 (Tamil Nadu Electricity Board Vs. Board Thozhilalar Aykkiya Sangam). It was held that when once a TNEB employee chooses the technical wing, he cannot be allowed to subsequently opt for the administrative or accounts stream.

6.We went through the Service regulations. We notice that the post of Fitter Grade II as well as Junior Assistant are in the same pay scale. The only difference between them is that while Fitter Grade II belongs to



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the technical stream, Junior Assistant belongs to administrative stream.

It is seen that the writ petitioner was also subsequently conferred with selection grade on 07.04.2024. He cannot retrace his steps and now seek appointment as Junior Assistant. It is true that the writ petitioner is having the requisite educational qualification for holding the post of Junior Assistant. It is also true that similarly placed persons were appointed as Junior Assistants. But then, these are not matters in which we can mechanically apply the equality principle. We cannot ignore the board proceedings whose validity had been upheld by the Hon'ble Supreme Court.

7.In this view of the matter, the order of the learned Single Judge is set aside and the writ appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

**(G.R.S. J.,) & (K.R.S. J.,)**  
**08.08.2025**

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**G.R.SWAMINATHAN, J.**  
**and**  
**K.RAJASEKAR, J.**

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