



*W.P.No.12432 of 2013*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2026

WEB COPY

CORAM

**THE HONOURABLE MR.JUSTICE HEMANT CHANDANGOUDAR**

**W.P.No.12432 of 2013**

**and**

**M.P.No. 2 of 2013**

- 1.N.Suresh Babu
- 2.M.Vivek
- 3.C.Malarvizhi
- 4.C.Chinnathai suji
- 5.S.Jayanthi
- 6.C.Marypia
- 7.K.Vasugi
- 8.S.Kayalvizhi
- 9.S.J.Padmanabhan
- 10.N.Anitha
- 11.L.Karolin Vimala
- 12.K.Amutha Lakshmi
- 13.A.R.K. Matha selvam
- 14.K.Subash Chandran
- 15.G.Sathiyamurthi
- 16.Soundararajan.A
- 17.B.Shanmugam
- 18.K.Senthil Kumar

..Petitioners



W.P.No.12432 of 2013

Vs

WEB COPY

1.The TANGEDCO  
rep by Chairman-Cum-Managing Director,  
Tamil Nadu Electricity Board,  
144, Anna Salai, Chennai-600002.

2.The Chief Engineer (Personnel)  
The TANGEDCO,  
Tamil Nadu Electricity Board,  
144, Anna Salai, Chennai-600002.

3.P.Murugesan  
4.M.Balachandran  
5.V.Senthil Kumar  
6.Rajan Parthiban.B  
7.Subramanian.S  
8.Nagarajan.T  
9.Sampathkumar.T  
10.Rinchumon.V  
11.Raajakumar.R  
12.Shankar V.K.  
13.Meenachisundram.T  
14.Ravi Rajakumar.G  
15.TNEB Engineers Sangam  
Rep by its General Secretary,  
793, Anna Salai, Chennai-600002.  
(R15 impleaded vide order of this  
Court dated 04.06.2014)

..Respondents

***Prayer (Prayer amended vide order of this Court dated 30.01.2026):*** Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus, calling for the records on the file of the second respondent in Letter No. 8677/126/G.1/G.11/2013-4 dated 02.03.2013 and memo No. 15979/G15/G151/2013-2 dated 22.04.2013 and 8677/126/G1/G11/2012-13 dated 27.04.2013 quash the same to the limited extent of placement of names of the private Respondents above the names of



*W.P.No.12432 of 2013*

the Writ Petitioners and issue consequential directions to place the Petitioners as seniors to the Respondents 3 to 14 in the seniority list of Assistant Engineer for Mechanical for the year 2003-2011 and to empanel the Petitioners to the post of Assistant Executive Engineers and further promotions to the next higher posts and to notionally promote the Petitioners with effect from 26th August 2013 and to accordingly grant further higher promotions also well prior to the promotion of private Respondents and to grant all consequential benefits to the Petitioner herein and to pass such further or other orders.

For Petitioners :Mr.M.Ravi

For Respondents :Mr.K.Raj Kumar,Standing  
Counsel - R1 & R2  
No Appearance - For R3 to R9, R11,  
R12 and R14  
For R10 & R13 – Dismissed vide  
order of this Court dated 29.08.2016  
Mr.Sundar Narayan – R15



*W.P.No.12432 of 2013*

WEB COPY

## **ORDER**

The challenge in this writ petition was initially to the suitability list issued by the second respondent vide letter dated 02.03.2013, and for a consequential direction to the second respondent to place the petitioners senior to respondents 3 to 14 in the seniority list of Assistant Engineers (Mechanical) for the years 2003 to 2011, and to consider their case for further promotion.

2. Pending consideration of the writ petition, a revised seniority list dated 27.04.2013 was issued, stating that certain names had been erroneously omitted in the impugned letter dated 02.03.2013. This Court, by order dated 29.04.2013 passed in W.M.P.No.2 of 2013, observed that any promotion granted would be subject to further orders to be passed in the miscellaneous petition. Thereafter, the petitioners filed a Miscellaneous Petition seeking amendment of the prayer, which was allowed.



*W.P.No.12432 of 2013*

**WEB COPY** 3. By way of the amendment, the petitioners challenge the letter dated 02.03.2013 and the Memo dated 22.04.2013 issued by the second respondent, to the limited extent of placing the names of the private respondents above those of the writ petitioners. The petitioners also seek consequential directions to place them senior to respondents 3 to 14 in the seniority list of Assistant Engineers (Mechanical) for the years 2003 to 2011, to empanel the petitioners for promotion to the post of Assistant Executive Engineers, and to grant them further promotion in accordance with law.

4. Brief facts leading to the filing of the present writ petition are as follows:

4.1. The petitioners claim to be holders of a Bachelor of Engineering degree in Mechanical Engineering. Except for petitioners Nos. 2, 13 to 16, and 18, the remaining petitioners were appointed as Assistant Engineers (Mechanical) by direct recruitment and joined service in February 2006. Petitioners Nos. 2 and 18 were appointed as Assistant Engineers (Mechanical) on compassionate grounds and joined service in December 2006. Petitioners Nos. 13 to 16 were appointed as Assistant Engineers (Mechanical) by re-designation, upon acquiring the B.E. degree, in the year 2006. Respondents Nos. 3 to 14 were appointed by internal selection from



*W.P.No.12432 of 2013*

the feeder categories.

WEB COPY

4.2. In the above factual background, the second respondent issued a suitability list dated 05.02.2013, which was subsequently revised on 27.04.2013. The grievance of the petitioners is that, although they were appointed in the year 2006, and the private respondents were appointed only in the year 2007, the private respondents were placed senior to the petitioners in the suitability list. According to the petitioners, such placement is arbitrary, discriminatory, and violative of the service regulations of the respondent Board.

5. Mr. M. Ravi, learned counsel for the petitioners, submitted that the petitioners were appointed as Assistant Engineers (Mechanical) in the year 2006, whereas the private respondents were appointed by internal selection on 06.01.2007. Therefore, the placement of the private respondents above the petitioners is contrary to the Service Regulations of TANGEDCO, particularly Regulation 97 of the TNEB Regulations.

6. Per contra, Mr. K. Rajkumar, learned Standing Counsel for the respondent-TANGEDCO, placed reliance on the proceedings dated 30.12.2006 issued by the Senior Personnel Officer (Recruitment), TANGEDCO, to substantiate that the private respondents were appointed



*W.P.No.12432 of 2013*

pursuant to those proceedings, following approval of the list of private respondents by the Chief Engineer (Personnel) on 29.12.2006. It was submitted that the suitability list impugned in the writ petition is strictly in accordance with Regulation 97 of the TNEB Service Regulations, which specifically provides for the publication of the seniority list of Assistant Engineers (Mechanical) recruited through internal selection and direct recruitment in the ratio of 1:1 in a particular calendar year.



W.P.No.12432 of 2013

WEB COPY

7. The learned counsel for TANGEDCO and the learned counsel for the private respondents further contended that the memorandum dated 06.01.2007 issued by the Superintending Engineer pertains only to allotment of duties and cannot be construed as an order of appointment, especially when the internal selection of the private respondents had already been approved by the Chief Engineer (Personnel) on 29.12.2006. It was further submitted that the selection process for internal candidates had commenced in June 2006, and the delay in completion of the selection process cannot be attributed to the private respondents. Consequently, such delay cannot deprive them of their legitimate right to fixation of seniority.

8. It was also submitted that for the purpose of determining seniority, the date of appointment is the crucial factor and not the date on which the candidates joined duty or were allotted work. In support of this contention, reliance was placed on the judgment of the Constitution Bench of the Hon'ble Supreme Court in *Direct Recruit Class II Engineering Officers' Association v. State of Maharashtra [(1990) 2 SCC 715]*, as well as the decision in *Balwant Singh Narwal and Others v. State of Haryana and Others [(2008) 7 SCC 728]*.

9. This Court has carefully considered the submissions made by the



*W.P.No.12432 of 2013*

learned counsel appearing for all parties and the materials placed on record.

WEB COPY

10. Before advertng to the merits of the case, it would be apposite to extract the relevant Service Regulations of TANGEDCO and examine their effect:

10.1. Chapter III of the Regulations deals with the general conditions of service.

10.2. Regulation 10 deals with definitions. Sub-clause (9) of Regulation 10 defines the term “Duty” and states that a person is said to be on duty when he is performing the duties of a post, or is undergoing probation, instruction, or training prescribed for a post in a class of service, or is on joining time.

10.3. Regulation 11(a) provides that appointments to various posts in the Board shall be made by the Board or by the competent authorities in accordance with the powers vested in them by the Board from time to time.

10.4. Regulation 11(b) stipulates that all first appointments shall be made by the appointing authority from a list of approved candidates prepared in the manner prescribed by the Board. Where the candidates are arranged in



*W.P.No.12432 of 2013*

the order of preference, appointments shall be made in that order.

WEB COPY

10.5. Regulation 87(1) of Chapter X states that a person is said to be “appointed to a class of service” when, in accordance with the Regulations applicable at the relevant time, he discharges for the first time the duties of a post borne on the cadre of such class of service, or commences probation, instruction, or training prescribed for members thereof.



*W.P.No.12432 of 2013*

10.6. Regulation 93 provides that the appointing authorities for the categories and posts specified in Column (1) of Annexure II shall be the authorities specified in the corresponding entry in Column (2) thereof.

10.7. As per Column (1) of Annexure II, the appointing authority for the post of Assistant Engineer is the Superintending Engineer concerned. Note 2 appended to Annexure II states that where the Superintending Engineer is the appointing authority, and where State-wide seniority is maintained for the purpose of promotion, the Superintending Engineer shall make appointments from the list of employees suitable for promotion, approved and allotted by the Chief Engineer (Personnel).

10.8. Regulation 97 deals with seniority and stipulates that 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 the appointing authority, as the case may be. The date of commencement of probation shall be the date on which the person joins duty, irrespective of his seniority.



*W.P.No.12432 of 2013*

10.9. The proviso to Regulation 97 further states that the seniority of Assistant Engineers (Electrical/Civil/Mechanical) recruited through both internal selection and direct recruitment, in the ratio of 1:1 in a particular calendar year, shall be fixed in the cyclic order of 1. Internal Selection and 2. Direct Recruitment.

11. The cumulative effect of the aforesaid regulations may be summarised as follows:

11.1. The Service Regulations define the manner of appointment and fixation of seniority. A person is considered to be on duty when performing the duties of a post or undergoing probation, training, or joining time. Appointments to posts are to be made by the Board or the competent authority from a duly approved list of candidates, in the order of preference prescribed.

11.2. A person is deemed to be appointed to a class of service when he first discharges the duties of a cadre post or commences probation or training. The appointing authority for the post of Assistant Engineer is the Superintending Engineer concerned, who makes appointments for State-wide seniority posts from the list approved and allotted by the Chief Engineer (Personnel).



*W.P.No.12432 of 2013*

11.3. Seniority is determined by the rank obtained in the approved list of candidates and not by the date of joining duty. For Assistant Engineers (Electrical/Civil/Mechanical) recruited through both internal selection and direct recruitment in a calendar year, seniority is fixed in the prescribed 1:1 ratio, following a cyclic order of internal selection first, followed by direct recruitment.

12. It is not in dispute that all the petitioners herein were appointed as Assistant Engineers (Mechanical) by direct recruitment. Except petitioners Nos. 2, 13 to 16, and 18, the remaining petitioners were appointed vide proceedings dated 15.02.2006, pursuant to the recruitment notification issued in the year 2005. Some of the petitioners were appointed subsequently either on compassionate grounds or by re-designation of posts. Therefore, there is no dispute with regard to the fact that all the petitioners were appointed during the calendar year 2006.

13. In the counter affidavit, the respondent–TANGEDCO has categorically stated that the selection process for internal selection commenced in June 2006. It is further stated that the memorandum dated



*W.P.No.12432 of 2013*

05.01.2007 was only an order issued by the second respondent allotting the internal selectees to various stations of the Board, pursuant to which an order dated 06.01.2007 was issued by the Superintending Engineer. The list of eligible internal selectees for the year 2006 was drawn up on 30.12.2006. Therefore, according to the respondents, private respondents Nos. 3 and 4 are entitled to count their seniority from the year 2006.

14. It was vehemently contended by TANGEDCO and the private respondents that the private respondents were appointed on 30.12.2006, following approval of the selection by the Chief Engineer (Personnel) on 29.12.2006, and that proceedings dated 05.01.2007 were issued thereafter. However, a perusal of the proceedings dated 30.12.2006 reveals that the Deputy Chief Engineer merely informed that the list of candidates selected for appointment to the post of Assistant Engineer (Mechanical) by internal selection had been approved by the Chief Engineer (Personnel) on 29.12.2006. Clause (2) of the said proceedings only states that the employees mentioned therein may be appointed as Assistant Engineers (Mechanical), subject to fulfillment of the conditions stipulated therein.



*W.P.No.12432 of 2013*

WEB COPY

15. Consequent upon the proceedings dated 30.12.2006, the Chief Engineer (Personnel) issued further proceedings dated 05.01.2007, wherein it was stated that the individuals provisionally selected for appointment as Assistant Engineers (Mechanical) through internal selection, whose names were furnished in the Annexure, were allotted to the respective Superintending Engineers. Their selection was expressly made subject to the conditions enumerated therein.

16. Clause (4) of the proceedings dated 05.01.2007 specifically requested the Superintending Engineer to issue orders of appointment on a temporary basis under Regulation 106 of the TNEB Regulations, subject to the individuals agreeing to the stipulated conditions in writing. Pursuant thereto, the Superintending Engineer issued proceedings dated 06.01.2007, appointing the private respondents as Assistant Engineers (Mechanical) under Regulation 106 and allotting them to the respective divisions.

17. A cumulative reading of all the proceedings makes it clear that although the approval of the list of private respondents was granted by the Chief Engineer (Personnel) on 29.12.2006, the actual appointment orders were issued only on 06.01.2007 by the competent appointing authority,



W.P.No.12432 of 2013

namely the Superintending Engineer. Therefore, what clearly transpires from the records is that the private respondents were appointed only on 06.01.2007 and not on 30.12.2006.

18. Accordingly, the placement of the private respondents above the petitioners in the impugned seniority list of Assistant Engineers (Mechanical) is contrary to the proviso to Regulation 97 of the TNEB Regulations, as the petitioners were appointed in the calendar year 2006, whereas the private respondents were appointed in the calendar year 2007. The decisions relied upon by the learned counsel for the respondents are not applicable to the facts of the present case and are clearly distinguishable, as the principle laid down therein is that the date of appointment, and not the date of joining, must be reckoned for determining seniority.

19. In *Balwant Singh Narwal and Others v. State of Haryana* and Others, cited supra, the Hon'ble Supreme Court relied upon its earlier decision in *Surender Narayan v. State of Bihar [(1998) 5 SCC 246]* and held that candidates selected against earlier vacancies but appointed later due to technical difficulties must be placed above those appointed against subsequent vacancies.



*W.P.No.12432 of 2013*

WEB COPY 20. The said decision is distinguishable on facts, as it was rendered in the absence of specific statutory regulations, unlike the present case, where the proviso to Regulation 97 of the TNEB Regulations specifically governs fixation of seniority based on appointments made in a calendar year.



W.P.No.12432 of 2013

21. In the instant case, as discussed above, there was no restraint order passed by any Court preventing the appointment of the private respondents.

In ***Balwant Singh Narwal's*** case, the Apex Court, at paragraph 8, referring to ***Dr. Chander Prakash v. State of Uttar Pradesh [(2002) 10 SCC 710]*** and ***State of Uttaranchal v. Dinesh Kumar Sharma [(2007) 1 SCC 683]***, reiterated that mere selection does not confer a right to appointment and that notional seniority cannot be granted retrospectively so as to prejudice persons already in service.

22. The said principle squarely applies to the present case. Mere approval of the list of private respondents by the Chief Engineer (Personnel) on 29.12.2006 does not amount to appointment. Consequently, the private respondents cannot be granted notional seniority, which would adversely affect the seniority of the petitioners who were already appointed in the year 2006.



*W.P.No.12432 of 2013*

WEB COPY

23. Appointment by direct recruitment or by promotion ordinarily involves a lengthy selection process. Merely because the selection process of the private respondents commenced in June 2006 and was completed only on 06.01.2007, it cannot be a ground to interpret the proviso to Regulation 97 to mean that the date of approval of the list of candidates drawn for promotion should be reckoned for the purpose of seniority. Such an interpretation would equally enure to the benefit of the petitioners appointed by direct recruitment, whose selection process had commenced in 2005 and whose appointment orders were issued only in February 2006.

24. Accordingly, the following order is passed:

- i. The writ petition is allowed.
- ii. The impugned proceedings dated 02.03.2013 and 27.04.2013 issued by the second respondent in so far it relates to placing the private respondents above the Petitioners are hereby set aside.
- iii. The first and second respondents are directed to revise the seniority list by placing the petitioners above the private respondents and to grant all attendant benefits, including consideration for promotion nationally without arrears of salary, in accordance with law. The said exercise shall be completed within three months from the date of uploading of this order on the official website of this court.
- iv. As the private respondents have been promoted pursuant to the impugned seniority list, which was expressly made subject to further orders to be passed by this Court, respondents 1 and 2 shall



WEB COPY



*W.P.No.12432 of 2013*

endeavour to accommodate and protect the promotions of the said private respondents against available vacant sanctioned posts or, if necessary, by creating supernumerary posts.

v. Consequently, the connected miscellaneous petition is closed. There shall be no order as to costs.

**30 .01.2026**

Index : Yes  
Neutral Citation : Yes  
Speaking

*ak*



*W.P.No.12432 of 2013*

WEB COPY

1.The Chairman-Cum-Managing Director,  
Tamil Nadu Electricity Board,  
144, Anna Salai, Chennai-600002.

2.The Chief Engineer (Personnel)  
The TANGEDCO,  
Tamil Nadu Electricity Board,  
144, Anna Salai, Chennai-600002.



WEB COPY



*W.P.No.12432 of 2013*

**HEMANT CHANDANGOUDAR, J.,**

*ak*

**W.P.No.12432 of 2013**

**30.01.2026**