



W.P(MD)No.14885 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.06.2026

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P(MD)No.14885 of 2022

and

W.M.P(MD)No.10642 of 2022

The Superintending Engineer,
Tuticorin Electricity Distribution Circle,
No.131, Ettayapuram Road,
Tuticorin - 628 002.

... Petitioner

Vs

The Secretary,
Tamil Nadu Electricity Employees Central Union (CITU),
Tuticorin Electricity Distribution Circle Branch,
No.145/1A, Ettayapuram Road,
Tuticorin – 628 002.

... Respondent

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, calling for the records of the Labour Court, Tirunelveli in I.D No.112 of 2018 and quash the award dated 31.01.2020.



W.P(MD)No.14885 of 2022

WEB COPY

For Petitioner : Mr.G.Anand Gopalan
for M/s.T.S.Gopalan and Co.

For Respondent : Mr.D.Srinivasa Ragavan

ORDER

Challenging the award passed by the Labour Court, Tirunelveli, in I.D. No.112 of 2018, dated 31.01.2020, the petitioner has filed the present Writ Petition.

2.The case of the respondent Union is that its member, P.Karunakaran, initially entered service as a contract labourer in the Tuticorin Thermal Power Station prior to the year 1999. Pursuant to the Scheme for Regularisation, he was absorbed as a Helper with effect from 01.05.1999. As per the said Scheme, surplus manpower so absorbed could be transferred to other Electricity Distribution Circles. Accordingly, nearly 1,000 contract labourers, who had been absorbed in various Generation Circles across the State, were transferred to different Distribution Circles



W.P(MD)No.14885 of 2022

WEB COPY

depending upon the availability of vacancies. In terms of the said Scheme, P.Karunakaran was transferred to the Kullanchavadi North Section in the Cuddalore Electricity Distribution Circle on 04.03.2000 and was appointed as a Field Assistant. Since the transfer was on the ground that he was surplus, his seniority in the Cuddalore Electricity Distribution Circle was reckoned based on the seniority that he had acquired in the Tuticorin Thermal Power Station. Thereafter, he was promoted as Commercial Assistant on 04.05.2004 in the same Circle by taking into account his existing seniority.

3.Subsequently, on 18.09.2007, P. Karunakaran submitted a request seeking transfer to the Tuticorin Electricity Distribution Circle owing to his family circumstances. The said request was accepted on 20.09.2007, subject to the condition that he would forego his existing seniority. Accordingly, he was transferred to the Tuticorin Electricity Distribution Circle, and his seniority as Commercial Assistant was fixed on 07.11.2007 by placing him as the junior-most Commercial Assistant in the



W.P(MD)No.14885 of 2022

WEB COPY

said Circle. He was posted to the Kovilpatti Division of the Tuticorin Electricity Distribution Circle. Thereafter, on 24.11.2014, he submitted a representation seeking the grant of Selection Grade with effect from 03.05.2013, on completion of nine years of service in the post of Commercial Assistant from 04.05.2004. However, the said request was rejected. Aggrieved thereby, the respondent Union raised an Industrial Dispute in I.D. No.112 of 2018 before the Labour Court, Tirunelveli. By the impugned award, the Labour Court allowed the Industrial Dispute and directed the grant of Selection Grade to the respondent's member. Challenging the said award, the present Writ Petition has been filed.

4.The learned counsel appearing for the petitioner Board submitted that, as per Board Proceedings in B.P. Ms. (Ch.) No.66 (Administrative Branch), dated 01.12.1985, particularly Clauses 4(ii) and 4(iii), an employee who seeks transfer to another Distribution Circle on his own request is required to forgo his existing seniority and shall be placed as the junior-most employee in the transferee Circle. Accordingly, the seniority



W.P(MD)No.14885 of 2022

WEB COPY

of P. Karunakaran in the Tuticorin Electricity Distribution Circle commenced only from 07.11.2007. It is contended that he would become eligible for the grant of Selection Grade only upon completion of nine years from the said date, provided he was not promoted to the next higher post. Further, Clause 9 of the Board Proceedings makes it clear that, consequent upon fixing the inter se seniority as per the principles laid down in paragraph 4(i), (ii), (iii) and (iv) above, for the purpose of movement to Selection Grade, the orders issued dated 14.07.1982 shall be followed, i.e., the service rendered in the former system in the same time scale of pay shall be taken into account only if such service is reckoned for the purpose of fixation of seniority for promotion in the present system.

5.The learned counsel further submitted that if the qualifying service for Selection Grade is reckoned from 04.05.2004, it would result in an anomalous situation, as employees who were promoted in the Tuticorin Electricity Distribution Circle during the year 2006, though senior to P. Karunakaran in that Circle, would become disentitled to Selection Grade,



W.P(MD)No.14885 of 2022

WEB COPY

while the transferred employee would receive the benefit earlier. Since P. Karunakaran had voluntarily foregone his seniority at the time of transfer, he cannot claim any service benefits based on his earlier seniority. It is also submitted that promotional vacancies were available during the year 2013, but he was not eligible for promotion, as several seniors in the Tuticorin Electricity Distribution Circle were awaiting promotion. Therefore, when he was not entitled to promotion in the year 2013, he was equally not entitled to the grant of Selection Grade from that date. The Labour Court failed to appreciate these aspects and erroneously granted Selection Grade, which would create anomalies in the seniority and service conditions of the employees working in the Tuticorin Electricity Distribution Circle. Accordingly, he prayed for allowing the Writ Petition.

6.Per contra, the learned counsel appearing for the respondent Union submitted that the grant of Selection Grade and promotion operate in two different fields and cannot be equated. Selection Grade is granted on completion of the prescribed period of service in a post, whereas promotion



W.P(MD)No.14885 of 2022

WEB COPY

depends upon the availability of vacancies and the employee's position in the seniority list. It is submitted that if an employee continues in the same post without promotion for the prescribed period of nine years, he becomes entitled to Selection Grade, irrespective of his seniority in the promotional cadre. Therefore, the principles governing promotion cannot be imported while considering eligibility for Selection Grade. The Labour Court rightly appreciated the distinction between the two concepts and correctly granted the benefit of Selection Grade to the respondent's member. Hence, the impugned award does not warrant interference by this Court. Accordingly, he prayed for dismissal of the Writ Petition.

7.Heard the learned counsel appearing for the petitioner Board and the learned counsel appearing for the respondent Union and perused the materials placed on record.

8.The Labour Court proceeded on the premise that the respondent's member is entitled to Selection Grade by reckoning his service



W.P(MD)No.14885 of 2022

WEB COPY

from 04.05.2004, without properly appreciating the effect of the voluntary transfer undertaken by him on his own request on 20.09.2007, wherein he had expressly foregone his seniority. Once the employee had accepted the condition of placement as the junior-most employee in the transferee circle and his seniority was refixed only with effect from 07.11.2007, the qualifying service for grant of Selection Grade has to necessarily be computed only from the said date in terms of the applicable Board Proceedings, particularly B.P.Ms.(Ch.) No.66, dated 01.12.1985.

9.The finding of the Labour Court that the service rendered from 04.05.2004 is liable to be reckoned for the purpose of Selection Grade is contrary to the settled service principles governing inter-circle transfer and fixation of seniority, and if accepted, would lead to an anomalous situation whereby an employee who voluntarily forfeited his seniority would gain an unintended advantage over his seniors in the transferee circle.



W.P(MD)No.14885 of 2022

WEB COPY

10.The distinction between promotion and grant of Selection Grade, though correctly noted in principle, has been misapplied in the facts of the present case, as the eligibility for Selection Grade is intrinsically linked to the reckoning of qualifying service in the cadre as per the applicable service regulations and seniority position.

11.In view of the above, the impugned award of the Labour Court is liable to be set aside.

12.Accordingly, the Writ Petition is allowed and the award passed by the Labour Court, Tirunelveli, in I.D.No.112 of 2018 dated 31.01.2020 is set aside. There shall be no order as to costs. Consequently, the connected Miscellaneous Petition is closed.

29.06.2026

NCC : Yes / No

Index : Yes / No

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To

The Labour Court, Trichy.

9/10



WEB COPY



W.P(MD)No.14885 of 2022

M.DHANDAPANI, J.

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W.P(MD)No.14885 of 2022

29.06.2026