



W.P.(MD)No.29578 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.03.2026

CORAM:

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.(MD)No.29578 of 2025

and

W.M.P(MD)No.22882, 22883 & 22884 of 2025

and

W.M.P(MD)Nos.5011 & 5307 of 2025

- 1.S.M.Kanna
- 2.P.Reguraja
- 3.M.Balamurugan
- 4.A.Ashokkumar
- 5.V.Thiyagarajan
- 6.G.Ramkumar
- 7.S.Gopi
- 8.V.Gnanasundaram
- 9.S.Ayyasamy
- 10.V.Sharavanakumar

... Petitioner

Vs.

- 1.The Secretary to Government,
Energy Department,
Government of Tamil Nadu,
Fort St. George, Chennai.



W.P.(MD)No.29578 of 2025

WEB COPY

2.The Chairman cum Managing Director,
TNPDC (TNEB Ltd.,)
6th Floor, TANTRANSCO Building,
No.144, Anna Salai, Chennai-600 002.

3.The Chief Engineer (Personnel)
TNPDC (TNEB Ltd) Eastern Wing,
8th Floor, NPKRR Maaligai,
No.144, Anna Salai,
Chennai-600 002.

4.Y.Nafesa

5.S.Ahamed Arif

6.P.Vijaya

7.P.Gayathri

8.K.Nishanthi

9.R.Gurusamy

10.D.Senthil Kumar

11.J.Gopalakrishnan

12.P.Balamurugan

13.K.Muthukamatchi

14.G.Chellakamatchi

15.S.Muruganandam

16.M.Abdul Rehman

17.R.Nathiya

18.R.Vidyasakar

19.V.Thirupathy

20.R.C.Krishna Kumar

21.S.Murugan

22.S.Durai Raj

23.G.R.Prakash

24.S.Ebenazar Selva Daniel



W.P.(MD)No.29578 of 2025

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25.R.Udhayasankar
26.N.Muthukumar
27.P.Vijayakumar
28.A.Sadacharam
29.S.Arul
30.K.Baskaran
31.C.Thanga Solaiammal
32.R.Muthulingam
33.R.Shanmuga Priya
34.S.Maheswari
35.S.Murugesan
36.A.K.Sivaraman
37.M.Abdul Kadar
38.S.Regunayakasamy
39.J.Mathan
(R4 to R39 are impleaded)

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the third respondent in Memo No.016424/206/G3/G.32/2020-2 dated 03.03.2025 and the consequential proceedings in Letter No. 049985/G1/G1(1)/2025 dated 21.08.2025 and quash the same as illegal, and to consequently direct the respondents to revise the seniority list of Assistant Engineer/Electrical (Direct Recruitment Batch 2012 EEE) based on the merit marks in the approved selection list, following the ratio laid down by the Hon'ble Supreme Court in Bimlesh Tanwar v. State of Haryana [(2003) 5 SCC 605].



W.P.(MD)No.29578 of 2025

WEB COPY

For Petitioners : Mr.N.Dilip Kumar
For R1 to R3 : Mr.Veera Kathiravan
Additional Advocate General
Assisted by Mr.B.Ramanathan
Additional Government Pleader
For R4 to R8 : Mr.K.Ragatheesh Kumar
for M/s.Isaac Chambers
For R9 to R39 : Mr.T.Lajapathy Roy
Senior Counsel
for Roy and Roy Associates

ORDER

All the petitioners herein are the persons, who were appointed as Assistant Engineers (Electrical) by way of direct recruitment conducted in the year 2012 in the respondent Board. They approached this Court by filing the present writ petition challenging Memo No.016424/206/G3/G.32/2020-2, dated 03.03.2025, whereby the inter se seniority list among persons appointed during the recruitment that took place in the year 2012, and the letter dated 21.08.2025, whereby, reports were called for from all the Chief Engineers for preparation of panel for promotion to the post of Assistant Executive Engineers (Electrical).



W.P.(MD)No.29578 of 2025

WEB COPY

2. The case of the petitioners is that, though they were recruited as early as in the year 2012, no final seniority list had been prepared among the Assistant Engineers (Electrical) recruited during the year 2012. Only a tentative seniority list was communicated through CE / Personnel Memo No. 002542/01/G3/G3(2)/2020-9, dated 07.02.2024, and for the first time, the said list has been finalised through impugned memo, dated 03.03.2025. According to petitioners, the inter se seniority has been fixed among the 2012 batch direct recruits by following the roster system and not on the basis of merit secured by the respective candidates in the selection process conducted in the year 2012. A copy of the select list of 410 Assistant Engineer (Electrical) has also been placed before this Court. Further, in the light of the law laid down by the Hon'ble Apex Court in the case of ***Bimlesh Tanwar v. State of Haryana reported in (2003) 5 SCC 605***, it is contended that the action of the respondents in finalising the inter se seniority by following the roster system is illegal and not sustainable.



W.P.(MD)No.29578 of 2025

WEB COPY

3. The respondent Board filed a counter affidavit. Learned Additional Advocate General appearing for the Board contended that the impugned seniority list has been prepared strictly in accordance with Regulation 97 of the Tamil Nadu Electricity Board Service Regulations. According to him, the seniority has been finalised based on the approved list of selected candidates, and the impugned list has been prepared in terms of the relevant Regulations. He laid more stress on the word “List of Approved Candidates” used in Regulation 97.

4. The learned counsel appearing for the respondents 4 to 8, contended that the law laid down by the Hon'ble Supreme Court of India in the case of ***Bimlesh Tanwar's*** has no application to the present case, since no competitive examination was conducted in the recruitment process that took place in the year 2012. According to him, selection was based on marks secured in the qualifying examination and interview, and therefore, in terms of Regulation 97, the approved list would become the seniority list and there is no



W.P.(MD)No.29578 of 2025

WEB COPY

relevancy of the marks awarded in the said selection process. He also further contended that the seniority list was finalised as early as in the year 2020 and the petitioners have not raised any objection at any point of time.

5. The learned counsel for the respondents 4 to 8 also further contended that the Hon'ble Apex court in the case of ***Bimlesh Tanwar*** has relied more stress on the competitive exam and relative merit being fixed by recruitment agency, unlike in the present case. Therefore, rightly distinguish the case on hand and to say that the ratio laid down by the Hon'ble Apex Court in the case of ***Bimlesh Tanwar*** has no application to the case on hand. He also further contended that Regulation 97 mandates that any objection to seniority must be raised within three years. In the present case, a tentative seniority list had already been communicated as early as on 27.02.2020, and no objections were raised by the petitioners. Hence, the petitioners are barred by delay and laches.

6. The learned Senior Counsel appearing for the other impleaded respondents 9 to 39 contended that they are nothing to do with the main dispute



W.P.(MD)No.29578 of 2025

WEB COPY

that arise for consideration in the writ petition and it is only because of the interim stay that was granted by this Court, the case of the respondents 9 to 39 could not be considered though they are claiming and eligible for promotion to the post of Assistant Executive Engineer / Electrical through a different stream ie., in service candidates, namely the Junior Engineers Grade-I and Chief Head Draftsman. He also further contended that because of the interim stay granted by this Court, some of the persons who are identically situated, like respondents 9 to 39 have already retired from service without having the benefit of promotion and therefore, requested for vacation of the interim order or passing appropriate orders giving way to the other stream of candidates to have the benefit of promotion to the post of Assistant Engineer / Electrical.

7. This Court has carefully considered the submissions made on either side and also perused the entire material available on record.

8. The contention of the learned Additional Advocate General by placing reliance on Regulation 97 of the Tamil Nadu Electricity Board Service



W.P.(MD)No.29578 of 2025

WEB COPY

Regulations is required to be considered at the first instance. Regulation 97 of the Tamil Nadu Electricity Board Service Regulations read as under: -

“97.SENIORITY:

(a) 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 other appointing authority as the case may be. The date of commencement of his probation shall be the date on which he joins duty irrespective of his Seniority.

Provided that the seniority of Assistant Engineers (Electrical) / (Civil) / (Mechanical) recruited both by Internal Selection and direct recruitment in the ratio of 1 : 1 in a particular

(1) Internal Selection

(2) Direct Recruitment

(b) The transfer of a person from the category or grade in a class of service to another category or grade in the same class of service carrying the same pay or scale of pay shall not be treated as first appointment to the latter for purpose of



W.P.(MD)No.29578 of 2025

WEB COPY

seniority and the seniority of a person so transferred shall be determined with reference to the rank in the category or grade from which he was transferred. Where any difficulty or doubt arises in applying this Sub-Regulation, seniority shall be determined by the appointing authority.

© Where a member of a class of service, category or grade is reduced to a lower class of service, category or grade, he shall be placed at the top of the latter unless the authority ordering such reduction directs that he shall take rank in such lower class of service, category or grade, next below any specified member thereof.

(d) Application for the revision of seniority of a person in a service, class, category or grade shall be submitted to the appointing authority within a period of three years from the date of appointment to such service, class, category or grade or within a period of three years from the date of order fixing the Seniority, as the case may be. Any application received after the said period of three years shall be summarily rejected. This shall not, however, be applicable to cases of rectifying orders, resulting from mistake of facts.”



W.P.(MD)No.29578 of 2025

WEB COPY

9. In terms of clause (a) of Regulation 97 above, 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 other appointing authority, as the case may be. In the light of the same, this Court directed the respondent Board to produce the original record relating to fixation of *inter se* merit among the selected candidates, and accordingly the selection list of 600 Assistant Engineers by direct recruitment of the year 2012 is placed before this Court.

10. A perusal of the said select list would disclose that all the selecties were awarded marks on relative assessment of their merit, and basing upon the marks secured by the respective candidates in the qualifying examination and the interview. But as seen from the select list, they were all placed by following the 200 point roster system and they were accommodated in 3 cycles, namely, Cycle 1, Cycle 2 and Cycle 3, which clearly disclose that the said select list is purely by following the roster but not the basis of merit/marks. In the select list, sixth



W.P.(MD)No.29578 of 2025

WEB COPY

respondent, who secured only 59.86 marks was placed at serial No.2 and whereas, one candidate by name Akila.R, who secured 69.14 marks was placed at Serial No.3. So also another candidate by name Gayathri.P, who secured 83.45 marks was placed at Serial No.5.

11. From the above, it is evident that there was a relative assessment of merit and the respective candidates were also awarded marks. Once there is an assessment of relative merit among the candidates, who participated in the recruitment process, the merit list has to be drawn basing upon the marks secured by each of the candidates and that should be treated as the approved list. Accommodating the selected candidates by following the roaster would arise only after selection of the candidates by following the merit. No doubt the inter se merit among the respective reserved category candidates would be considered while filling up reserved posts. But in the instant case, though this Court required the respondent Board to produce the original records relating to selection process, the same failed to be produced by the respondent Board. However, the fact remains that the select list was prepared by following the



W.P.(MD)No.29578 of 2025

WEB COPY

roster system ignoring the relative merit as is evident from the copy of the final select list ie., placed before this Court and finalised through letter No. 11494/24/G.55/G.551/2011, dated 06.07.2020. Therefore, the select list that was drawn by following the roster cannot be termed as a 'list of approved candidate' contemplated under Regulation 97 of the Board Regulations. The approved list is only the list that was drawn basing upon the merit of the respective candidates. If there is no relative assessment of merit and all the candidates satisfying eligibility criteria are recruited, then the process adopted by the respondent Board may be said to be the approved list under Regulation 97 of the Board Regulation. But in the instant case, admittedly, there is a relative assessment of merit and the marks were also awarded by taking into consideration the cumulative marks secured in the qualifying examination and the interview. Once there is a relative assessment of merit, there cannot be any other method by which selection of candidates can take place. The method of selection that was adopted in the instant case is by considering the marks acquired in the qualifying examination and interview which is one of the methods recognised under the Board Regulations, namely, Regulation 89(5) of the Board Regulations. The said



W.P.(MD)No.29578 of 2025

WEB COPY regulation 89(5) is extracted hereunder for better understanding:-

“89(5)(i) Mode of Recruitment:

The Tamil Nadu Electricity Board shall have the Employment Exchange as its normal channel of recruitment for posts to be filled up by direct recruitment in all classes of service. However, recruitment through other sources like advertising and calling for applications for such posts from the open market shall be resorted to in case suitable qualified persons are not available through the Employment Exchange, after obtaining non-availability certificate from the Employment Exchanges. Selection of candidates shall be made by the appointing authority on the results of the written examination OR Interview OR based on the performance in the qualifying examination prescribed for the respective post OR by awarding marks for the performance in the qualifying examination OR by combining any of the method as considered suitable. All appointments by direct recruitment shall be made only from the list of candidates selected and arranged in the order of preference by the appointing authority. It is open to the Board to cancel any selection duly recording the reasons therefor.



W.P.(MD)No.29578 of 2025

WEB COPY

The selection of candidate for appointment from Nominal Muster Rolls Establishment Regular Work Establishment posts in Division IX under Class III Service shall be made in such manner as may be ordered by the Board from time to time.

The above sub-regulation shall not apply in the case of appointments of dependants of employees, who die in harness or the employees who retire from service on medical invalidation before attaining the age of 53 years or members of family, which are displaced on account of acquisition of lands for project.

NOTE

The Board, may, if circumstances so warrant, select candidates through the Employment Exchange for filling up vacancies in the category of Assistant in the Tamil Nadu Electricity Board Secretariat and Audit Branch in Division VI-A and VI-B under Class III by direct recruitment.

(II) Selection for appointment by direct recruitment to Class IV shall be made by the appointing authority concerned or by a Selection Committee in such manner as may be ordered by the Board from time to time.



W.P.(MD)No.29578 of 2025

WEB COPY

(iii) Selection for appointment by promotion shall be made by the appointing authority concerned in all cases or by a Selection Committee in such manner as may be ordered by the Board from time to time.”

Therefore, the method followed by the respondent Board in finalising the inter-se seniority of the direct recruit Assistant Engineers / Electrical of the year 2012, on the face of it, appears to be arbitrary, illegal.

12. The Hon'ble Apex Court in the case of ***Bimlesh Tanwar v. State of Haryana reported in (2003) 5 SCC 605*** held as under:-

“40. An affirmative action in terms of Article 16(4) of the Constitution is meant for providing a representation of a class of citizenry who are socially or economically backward. Article 16 of the Constitution of India is applicable in the case of an appointment. It does not speak of fixation of seniority. Seniority is, thus, not to be fixed in terms of the roster points. If that is done, the rule of affirmative action would be extended which would strictly not be in consonance of the constitutional schemes. We are of the opinion that the decision in P.S.Ghalaut does not lay down a good law.”



W.P.(MD)No.29578 of 2025

WEB COPY

13. The next contention raised by placing reliance of Clause (d) of Regulation 97 contending that if there is any objection with regard to seniority, the same is required to be raised within a period of 3 years is concerned, in the considered view of this Court, in the facts and circumstances of the case, the said question does not arise for the following reasons.

14. A perusal of the impugned seniority list communicated through memo dated 03.03.2025 would show that the tentative seniority list that was communicated through the Reference No.2 therein dated 27.02.2020 is for the first time finalised through the impugned proceedings. As it is evident from paragraph 2 of the impugned proceedings, which reads as under:-

“2. Now after making inclusion/correction in the 2012 Assistant Engineer/Electrical tentative Inter-se-seniority list issued in the Memo dated 27.02.2020, the Inter-se-Seniority of Assistant Engineer/Electrical for the year 2012 is hereby communicated in Annexure to this Memo subject to outcome of verdict of Court cases if any pending against this matter.”



W.P.(MD)No.29578 of 2025

WEB COPY 15. A perusal of the said proceedings dated 27.02.2020 would also disclose that the seniority list that was communicated was only a tentative seniority list and calling for objections. There is no other proceeding that is brought to the notice of this Court to say that the said tentative seniority list that was communicated through Memo dated 27.02.2020 has ever been finalised. From paragraph-2 of the impugned proceeding extracted above, it is evident that it is only through the impugned proceedings, the said tentative seniority list issued as early as on 27.02.2020 is being finalised. Therefore, the objection on the ground of delay etc., does not arise.

16. The next contention contending that none of the petitioners have raised objection against the tentative seniority list, dated 27.02.2020 is concerned, the same also cannot be sustained. Whether any candidate raised any objection against the tentative seniority list or not, it is always open for the aggrieved party to challenge the final list once the same was issued. The final seniority list was only issued for the first time through impugned Memo dated 03.03.2025. Therefore, the objection on this ground also liable to be rejected.



W.P.(MD)No.29578 of 2025

WEB COPY

17. Coming to the contentions raised by the learned Senior Counsel appearing for the respondents 9 to 39, the said contentions have nothing to do with the merits of the matter. Their intention is only to safeguard their own interests, as their claim is nothing to do with the claim that is being made by the petitioners herein. Their objection is limited only to the continuation of the interim order passed by this Court.

18. The respondents 9 to 39 are all the persons, who are coming from different stream namely Junior Engineer Grade-I and Chief Head Draftsman and their promotions were stalled due to the dispute regarding inter-se seniority of Assistant Engineer (Electrical) of 2012 batch direct recruits. In the light of the law laid down in *Bimlesh Tanwar v. State of Haryana reported in (2003) 5 SCC 605* which is holding the field as on date. The action of the respondent Board in issuing the impugned memo dated 03.03.2025, fixing the inter-se seniority of the year 2012 batch of direct recruit Assistant Engineer (Electrical) by following roster point is liable to be declared arbitrary, illegal and violative



W.P.(MD)No.29578 of 2025

of Articles 14 and 16 of the Constitution of India. Accordingly, the impugned Memo dated 03.03.2025 is hereby quashed insofar as it relates to the inter-se seniority of Assistant Executive Engineers (Electrical) of the year 2012 batch of direct recruits are concerned. Consequently, the respondent Board is directed to refix the seniority by duly taking into consideration the merit of the respective candidates in the selection of the year 2012 and thereafter take steps for promotion from the said category to the post of Assistant Executive Engineer (Electrical). While undertaking such exercise, the respondent Board shall issue notice to all the affected parties and proceed in accordance with law.

19. Insofar as the claim of other candidates coming from different streams are concerned, the respondent Board is at liberty to effect promotions to the post of Assistant Executive Engineer (Electrical), as such promotions are to be made by following the prescribed ratio between direct recruits and in-service candidates, however without prejudice to the seniority of the Assistant Engineer (Electrical) on their promotion to the post of AEE (Electrical).



W.P.(MD)No.29578 of 2025

WEB COPY 20. Accordingly, the writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

16.03.2026

Neutral Citation: Yes / No
Index : Yes / No
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To

- 1.The Secretary to Government,
Energy Department,
Government of Tamil Nadu,
Fort St. George, Chennai.
- 2.The Chairman cum Managing Director,
TNPDC (TNEB Ltd.,)
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W.P.(MD)No.29578 of 2025

MUMMINENI SUDHEER KUMAR, J.

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W.P.(MD)No.29578 of 2025

16.03.2026