

(2026) 03 SC CK 1411

In the Supreme Court Of India

Case No : Civil Appeal No. 862, 863-864 Of 2026 (Arising Out Of Special Leave Petition (Civil) No.8374 Of 2025)

M. Thanigivelu And Ors

APPELLANT

Vs

Tamil Nadu Electricity Board And Ors

RESPONDENT

Date of Decision : 11-03-2026

Acts Referred:

Citation : (2026) 03 SC CK 1411

Hon'ble Judges : Rajesh Bindal, J;Vijay Bishnoi, J

Bench : Division Bench

Advocate : Sabarish Subramanian, Madhavi Divan, Preetika Dwivedi, Naveen Kumar Murthi, Abhisek Mohanty, Ansh Rajauria, Madhavi Divan, Nikhil Goel, Siddhartha Iyer, Naveen Kumar Murthy, S. Varsha, Abhishek Mohanty, M. Mahamani, Ansh Rajauria, Vishnu Priyan, Atharva Kotwal, Srishti Ghoshal, Aman Gupta, Riddhi Jain, Nikhil Nayyar, T. V. S. Raghavendra Sreyas, Siddharth Vasudev, Gayatri Gulati, A Velan , Amit Anand Tiwari, Sabarish Subramanian, Anusha Nagarajan, Jahnvi Taneja, Akansha Bhola, Vishnu Unnikrishnan, Tanvi Anand, Saushriya Havelia, Shoeb Alam, Tushar Srivastava, Vishal Sinha, K. Paari Vendhan, Guru Krishna Kumar, Preetika Dwivedi, Ashwin Kumar, Abhisek Mohanty, Ansh Rajauria, Gautam Narayan, Asmita Singh, Asmita Singh, Ankita Makan, Senthil Jagadeesan, Jayanth Muth Raj, Siddhartha Iyer, Srishti Ghoshal, Aman Gupta

Final Decision : Allowed

Judgement

Rajesh Bindal, J

1. Leave granted.

2. This judgment will dispose of a bunch of appeals involving identical issues. Vide common judgment 'Dated 06.09.2024', passed by the Division Bench of the High Court 'High Court of Judicature at Madras', seven writ appeals 'W.A. Nos.2093, 2094, 2095, 2685, 2686 of 2010 and 1443 & 1444 of 2018' were disposed of. The Division Bench of the High Court had set aside the order passed by the Single Bench whereby writ petitions filed by the private respondents

herein were dismissed. The dispute pertains to inter-se seniority of the Assistant Engineers (Electrical) 'AE', directly recruited and internally selected candidates. The appellants are the direct recruits, and the private respondents are the internally selected candidates.

3. Briefly, the facts relevant to the issue under consideration, as pointed out by the learned counsel for the parties at the time of hearing, are as follows.

3. 1 Tamil Nadu Electricity Board 'the Board' contemplated selection to the post of AE on direct recruitment basis and for internal candidates. Both have their separate quotas.

3. 2. Vide Board Proceeding 'BP' No.29 dated 27.11.2000 issued by the Board, written examination was introduced for the selection to the post of AE on direct recruitment basis. Vide another BP No.39 issued on

4. 12.2000, for carrying out selection for the post of AE, even for internal candidates, a written examination was proposed. Prior to that, on 03.11.2000, the Board had called for information regarding eligible candidates for appearance in examination for the internal selection quota. It was for the purpose of considering their suitability for promotion as AEs.

3.3 The prospective candidates, seeking selection through internal selection process, challenged the communication dated 03.11.2000 by filing Writ Petition No.20512 of 2000 before the High Court. The High Court granted interim stay on 06.12.2000.

3.4 BP No.35 was issued by the Board on 13.12.2000 providing that all appointed as AE (Training) shall undergo training, for a period of two years including induction training of three months with consolidated emoluments of ₹ 7,500/- per month. After carrying out the process of selection in December 2000 on direct recruitment basis, 200 AEs were appointed.

3.5 Subsequent thereto, after due process of selection, 100 more AEs were appointed on direct recruitment basis on 28.03.2001.

3.6 BP No.59 was issued by the Board on 13.11.2001 to dispense with the written examination for internal candidates from the date of issuance of BP.

3.7 BP No.9 issued by the Board on 23.04.2002 pertains to direct recruits providing that on completion of 3 months of intensive training AE (Trainee) shall be designated as AEs and their probation shall commence from the date of joining in the Board and will be for two years.

3.8 Thereafter, the selection process for internal candidates was carried out and the select list was issued on 06.05.2002. Consequently, appointments were made in that quota.

3.9 Writ Petition No.19596 of 2002 was filed by the internal selectees challenging BP No.9 vide which the training period of the candidates selected on direct

recruitment basis was reduced from two years to three months. Subsequent thereto, number of other writ petitions were filed claiming the same relief.

3.10 On 31.10.2007, inter-se seniority of AEs selected in the year 2000 was issued. It was revised on 01.04.2008. The same was also impugned before the High Court in W.P. 20879/2008.

3.11 On 03.07.2008, inter-se seniority of AEs selected and appointed in the year 2001 was issued. The same was also the subject matter of the challenge in W.P. No.20875/2008.

3.12 In the year 2009, AEs appointed on direct recruitment basis in the year 2000 and 2001 were promoted to the post of Assistant Executive Engineer on the basis of their seniority.

4. The writ petitions 'WP No. 19596 of 2002 & connected matters' filed by the internal selectees were dismissed by the Single Bench of the High Court holding that the directly recruited AEs in the year 2000 and 2001 were entitled to seniority from the date of their initial appointment. The aforesaid order was challenged by filing intra-court appeals before the Division Bench of the High Court.

5. The Division Bench set aside the order passed by the Single Bench and directed re-drawing of the seniority list treating that all the candidates were appointed in the year 2002.

6. It is this judgment of the High Court decided a bunch of appeals which is the subject-matter of challenge before this Court by the Board as well as the direct recruits. The respondents are the internal selectees.

ARGUMENTS ON BEHALF OF THE BOARD

7. Mr. Amit Anand Tiwari, learned counsel appearing for the Board, submitted that, in the case in hand, on direct recruitment basis 200 candidates were selected in December 2000, whereas 100 were selected and appointed on 28.03.2001. As against that, the internal candidates were selected and promoted on 06.05.2002. For the purpose of determining the issue as to whether the seniority of the direct recruits is to be reckoned from the date of their initial appointment, including the period of training or from the date when they were put on probation, after completion of training, he has referred to Regulation Nos. 10(9), 87 and 97 of the Tamil Nadu Electricity Board (Service Regulations), 1967 'the Regulations'.

7.1 The argument raised while referring to Regulation 10(9), is that a person is said to be on duty when he is performing the duties of a post or is undergoing the probation or training prescribed for the post.

7.2 While referring to Regulation 87(1), it was submitted that a person is said to be appointed to the service at the time he discharges for the first time, the duties on a post or commences probation or training prescribed therefor.

7.3 Referring to Regulation 97 dealing with the seniority, it was submitted that the seniority is to be determined with reference to the rank obtained by a candidate in the list of approved candidates by the appointing authority. It was submitted that the commencement of the probation is from the date a candidate joins duty, irrespective of his seniority. This has nothing to do with determination of inter-se seniority of the recruits from two different sources.

7.4 Explaining the proviso to the aforesaid Regulation, it was submitted that the same shall be applicable for determination of inter-se seniority of the direct recruits and the internal candidates in case both were recruited in the same calendar year. The case in hand does not fall in that category as the direct recruits were selected in the years 2000 and 2001, whereas the internal candidates were promoted in May 2002.

7.5 It was further argued that the Division Bench of the High Court has recorded erroneous findings to the effect that the seniority of the direct recruits is to be taken from the date when their probation started. The training period is to be excluded.

7.6 In support of the arguments, reliance was placed upon the judgments of this Court in *R.S. Ajara and Others v The State of Gujarat* 1997 INSC 213: (1997) 3 SCC 641 and the *State of H.P. v J. L. Sharma* 1997 INSC 736: (1998) 1 SCC 727.

ARGUMENTS ON BEHALF OF APPELLANTS / DIRECT RECRUITS

8. Mr. Nikhil Goel, learned senior counsel appearing for appellants, submitted that the problem arose on account of different B.Ps issued by the Board. He referred to B.P. No.35 dated 13.12.2000 whereby B.P. No.29 dated 27.11.2000 was amended. It clearly laid down that an incumbent shall be placed on probation for two years on completion of training. However, the same was never implemented. He further referred to B.P. No.9 dated 23.04.2002 in which it has been noticed that representations had been made by AE (Trainee) stating that two years' training period on consolidated pay may be reduced as they are independently attending to the work attached to the post of AEs, three months after intensive training. Vide aforesaid circular, the training period of newly recruited AEs (Trainee) during December 2000 to March 2001 was reduced from two years to three months.

9. Promotions from the quota of internal candidates was made in May 2002. On 03.06.2002, W.P. No.19596 of 2002 was filed by the internal candidates who were appointed to the post of AE (Electrical) in May 2002, praying for the quashing of B.P. No.9 dated 23.04.2002 with a further direction that the service of the directly recruited AEs (Trainees) be regularised only on completion of two years from the date of appointment. It was argued that the aforesaid BP was administrative in nature and could not override the Regulations, which are quite explicit.

10. The Single Bench dismissed the Writ Petitions. However, the Division Bench,

without pointing out any error in the judgment of the Single Judge, has just reversed the same. The import of the Regulations applicable to the post has not even been touched. As a result of the impugned judgment of the Division Bench, the date of appointment of the candidates who were appointed later will be ante-dated, whereas the direct recruits who were appointed earlier shall be deemed to be appointed later. The interpretation, as given by the Division Bench, runs contrary to the Regulations. If there was any delay in selection of the internal candidates, they were to be blamed as they had challenged the condition of exam provided for their selection. The examination for internal candidates was prescribed vide letter dated 03.11.2000 and this came to be reiterated vide B.P. No.31 dated 04.12.2000. The aforesaid BP was challenged by the internal candidates by filing W.P. No.20512 of 2000 in which interim stay was granted by the High Court on 06.12.2000. Subsequently, the conditions for holding exam for internal candidates vide B.P. No.31 dated 04.11.2000 was withdrawn vide B.P. No.59 dated 13.11.2001.

11. It was further argued that it is the recruitment to the post of AE (Electrical) and not AE (Trainee). Training is the part of the service as is evident from the Regulations and after training, the probation starts. It cannot be argued that for the purpose of counting seniority of the directly recruited candidates, the period will be counted only from the date the probation started. In support of the argument, reliance was placed upon judgment of this Court in Govt. of A.P. v. P. Bhaskar (2008) 11 SCC 687; 2008 INSC 267.

ARGUMENTS ON BEHALF OF INTERNALLY SELECTED CANDIDATES/PRIVATE RESPONDENTS

12. On the other hand, Mr. Nikhil Nayyar, learned senior counsel appearing for the internal selected candidates submitted that the challenge made by them before the High Court was to the reduction of period of training for the direct recruits, as the same was affecting their seniority. He referred to B.P. No.29 dated 27.11.2000 and B.P. No.35 dated 13.12.2000 providing for training period of 2 years inclusive of three month induction training for all appointees as Assistant Engineer/Electrical (Trainee) on a consolidated pay of ₹ 7,500/- p.m. The recruitment was subsequent to the issuance of the above B.Ps.

12.1 He further referred to appointment letter dated 15.12.2000 issued to directly recruited candidate in which a specific clause was put in that after completion of training, the candidate will be placed on probation for a period of two years on a regular pay scale. The same was to happen after completion of training for a period of two years on a consolidated pay. The aforesaid conditions were never challenged by any of the direct recruits.

12.2 He had referred to another appointment letter dated 27.12.2000 containing similar clause. This also provided that the newly recruited candidate will have to undergo training for a period of two years.

12.3 The argument was that the recruitment of direct recruits was made after

the issuance of the aforesaid B.Ps. Subsequent thereto, B.P. No.9 dated 23.04.2002 was issued which reduced the period of training from two years to three months. The benefit of aforesaid BP was sought to be given to the candidates who had already been recruited. This was the reason for the internal candidates to approach the Court. This action of the Board was affecting the seniority of internal selected candidates. The High Court had rightly opined that the aforesaid BP should be considered as prospective and not retrospective. Even referring to Regulations 89 and 97, the argument is that the seniority is to be counted only from the date probation starts. This is the opinion of the High Court as well. There is no error in the impugned judgment of the High Court. The appeals deserve to be dismissed.

13. Mr. Gautam Narayan, learned senior counsel appearing for the private respondents while adopting the arguments addressed by Mr. Nikhil Nayyar, Senior Advocate, submitted that the whole idea of issuing BP No.9 was to bypass the provisions of Regulation 97 which clearly provide the manner in which seniority of the direct recruits and the internal candidates is to be determined. In fact, the private respondents were eligible in the year 1997 for being promoted. However, the process of selection was delayed. As a result, there being no fault on their part, their position in the seniority is being compromised. He submitted that the delay in the process of promotion of the private respondents was caused by the direct recruits.

13. 1 He further argued that appointment of internally selected candidates was stalled due to introduction of an exam for them. To substantiate the same, it was contended that service regulations did not provide for any such exam and the same was introduced by Board Proceeding. Even the Single Judge in Para 50 of the order, held that Board's issuance of BP, introducing written examinations for internal selectees in violation of service regulations, was the "root cause" for all the problems regarding fixation of inter-se seniority.

13.2 The learned senior counsel further added that an employee enters the cadre only when the period of probation starts and not on the initial date of appointment. This is what Regulation 97 also provides. The internally selected candidates were rightly aggrieved against BP No.9 vide which the period of training of direct recruits was reduced as it was substantially affecting rights of the internally selected candidates, who had much more experience of working in the Board as compared to the direct recruits who had just entered the service. The reason for reducing the period of training is evident from the Note dated 12.02.2002, which also clearly depicts that the training period was not to be counted for qualifying service for the purpose of terminal benefits.

DISCUSSION

14. Heard learned counsel for the parties and perused the relevant referred record.

15. The dispute in the present case pertains to inter-se seniority of AEs

(Electrical) coming from two different sources, namely, direct recruits and internally selected candidates. The process is governed by Tamil Nadu Electricity Board Service Regulations, 1967.

16. To appreciate the contentions being raised by the learned counsel for the parties in our view certain Board Proceedings (BP) issued by the Board from time to time need to be summed up hereunder:

Brief narration of various BPs issued by Tamil Nadu Power Distribution Corporation Ltd. (TNPDC), Formerly Tamil Nadu Electricity Board (TNEB)

S.No.

Date

Particulars

1.

27.11.2000

Board Proceeding (BP) No. 29 was issued by TNEB.

BP No. 29 provided for introduction of written examination for selection of AEs through direct recruitment. It further provided for consolidated emoluments of ₹ 7,500/- p.m. during the two-year probation period (as against 6 months at Rs. 2,500/- currently) and stated that after successful completion of probation they will be absorbed as regular AEs in the regular scale of pay.

2.

03.11.2000

TNEB, by letter No.116790/269/G55/G551/2000- 3, informed Chief Engineers and Superintending Engineers of TNEB that a written examination is proposed to be held on 11.11.2000 for internal selection of AEs. They were directed to send all eligible and qualified employees to attend the examination.

3.

04.12.2000

BP No. 31.

Provided that written examination will be conducted for promotion to post of AE (Electrical) even for existing eligible employees who are qualified.

4.

13.12.2000

BP No. 35 was issued by TNEB, amending para 4 of BP No. 29, as follows:

"All appointees as Assistant Engineer/Electrical (Trainee) shall be on training initially for a period of two years including induction training of three months with a consolidated pay of Rs.7,500/- p.m. On completion of the training, he/she will be placed on probation for two years in the time scale of pay which is applicable to the regulation Assistant Engineer/Electrical in the Tamil Nadu Electricity Board. "

5.

12.04.2001

BP No. 23 was issued by TNEB, to amend Annexure I of Service Regulations, as follows: "Internal Selection and Direct Recruitment shall be made in the ratio of 1:1. Internal selection shall be made based on the results of a written test and also based on a minimum length of service rendered after acquiring B.E. Degree or equivalent qualification as may be decided by the Board from time to time."

6.

23.04.2002

BP No. 9 was issued by TNEB. The BP pertained to direct recruits, and provided as under:

" (i) On completion of three months intensive training the I Assistant Engineers/ Trainee shall be designated as Assistant Engineers with the duties and responsibilities of the regular Assistant Engineers.

(ii) The Assistant Engineers (Trainee) recruited during December 2000 and March 2001 shall be given the time scale of pay on par with the regular Assistant Engineers after completion of 3 months intensive training.

(iii) Their probation shall commence from the date of joining in the Board and will be for a period of two years within a continuous period of three years."

17. The relevant provisions or the Regulations dealing with the issue are extracted below:

"10. Unless there be something repugnant in the subject or context the terms defined in this chapter are used in these regulations in the sense here explained :

(9) DUTY: A person is said to be on duty

a) when he is performing the duties of a post or is undergoing the probation, instructions or training prescribed for a post in a class of service;

x x x x

87. (1) Appointed to a Class of Service:

A person is said to be "appointed to a class of service" when in accordance with these regulations or in accordance with the Regulations applicable at the time, as the case may be, 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.

Explanation: The appointment of person holding a post borne on the cadre of one category or class of service or a post in another category or class of service or to discharge the current duties thereof does not amount to appointment.

(2) Approved Candidate means, a candidate whose name appears in an authoritative list of candidates approved for appointment to any class of service or post borne on the cadre of a class of service.

x x x x

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 calendar year shall be fixed in the following cyclic order:

1. Internal Selection
2. Direct Recruitment"

Opinion Expressed By The High Court

18. The Division Bench of the High Court held that the Board has the power to prescribe training as a qualification for appointment. Consequently, B.P. No. 35, which mandated a two-year training period for direct recruits, was deemed valid and consistent with the Regulations. Further, regarding B.P. No. 9, issued on 23.04.2002, reducing the training period to three months, the Division Bench opined that this proceeding could not be applied retrospectively to start probation of the direct recruits from initial joining dates in 2000 or 2001. There cannot be any quarrel with the aforesaid view expressed by the High Court as it only talks about period of training of a direct recruit. The Division Bench ruled that direct recruits could only be considered to have started their probation on and after 23.04.2002 (the date B.P. No. 9 was issued). Before this date, they were designated as "trainees" and, by the express terms of the BPs, were prohibited from exercising the powers and duties of regular AEs. Since both the direct recruits and the internal selectees were now considered recruited in the same calendar year (2002), the Division Bench directed the Board to redraw the seniority list.

CONCLUSION

19. As far as the date of appointment of the candidate from two different sources of recruitment is concerned, the direct recruits were selected and appointed in December 2000 to March 2001 whereas the internally selected candidates were appointed by way of promotion in May 2002.

20. The issue to be considered in the present appeals is as to what is to be taken as the date of the appointment of the direct recruits. In our opinion, instead of going into the language used in various BPs issued by the Board, which had merely resulted in creating confusion to some extent, the complete answer lies in the Regulations.

21. Chapter 2 of the Regulations provides for the definition of 'Duty' in Regulation 10(9). From a bare perusal thereof, it is evident that a person is said to be on 'duty' when he is performing the duties of the post or is undergoing probation or training prescribed for the post. In the case in hand, the argument raised by the counsel for the respondent runs contrary to the plain language of Regulation 10(9) as noticed above. They wish to state that the period during which the direct recruits were undergoing training should not be counted for the purpose of seniority, while the Regulation treats them on duty.

22. If we go further, Regulation 87 which is part of Chapter 10 again containing certain definitions with the title 'Appointed to a Class of Service'. It clearly mentions that a person shall be appointed to a class of service when he discharges for the first time, the duties of the post or commences probation or training prescribed therefor.

22.1 Taking this further, even Regulation 97 is also in the same line and consistent with the aforesaid two regulations. Regulation 97 talks about seniority. It does not talk about the date of appointment which in fact had already been clarified in Regulations 10(9) and 87. It only mentions that the seniority shall be determined on the basis of the rank obtained by a candidate in the list of approved candidates drawn by the Board or any other appointing authority. Date of commencement of probation shall be the date on which he joins duty, irrespective of seniority.

22.2 In our opinion, from the plain language used in the aforesaid Regulation, it is evident that seniority is to be counted from the placement of a candidate in the merit list which is prepared at the time when recruitment takes place. As provision has been made for two years' probation after selection, different candidates may join on different dates during the permitted joining time. The period of probation he had to undergo will remain two years from the date he joins duty. The merit will not affect completion of probation.

22.3 Proviso to the aforesaid regulation will not come in aid of the respondents, as it talks about the seniority of Assistant Engineers recruited from two sources i.e. both by way of internal selection and direct recruitment in a particular

calendar year in the ratio of 1:1. It is for the reason that selection in the case in hand of direct recruits was made in December 2000 and March 2001 whereas the internal selected candidates were promoted in May 2002. In case, the argument raised by learned counsel for the respondents is accepted, it will wash off the service rendered by the direct recruits from the date of their initial appointment. At the cost of repetition, it is added that training is a part of service which is imparted after an incumbent joins duty. Even Regulations treat this as a part of duty. Merely payment of consolidated sum during the period of training and regular scale when the probation starts will not make any difference. That is why Regulations 97 does not say anything to the contrary to what is clearly provided in Regulations 10(9) and 87. No Regulation has been cited before us from which it can be inferred that the seniority is to be counted from the date a candidate starts his probation.

23. Even issuance of B.P. No.9 dated 23.04.2002 vide which the training was reduced from two years to three months will not have any bearing on the case in hand. The High Court has misdirected itself in treating that BP to be relevant for the purpose of determination of seniority of the direct recruits in the case in hand. No doubt, it will have application from the date on which the same has been issued. However, only for the purpose of the period of training, any candidate recruited and sent for training even if for a period of three months will be treated to have been recruited on day when he joins service and sent for training. In fact, this BP did not give a cause of action to the internal candidates to challenge the same, even if it had reduced training period of directly recruited candidates. It is the wisdom of the employer regarding how much period of training is to be imparted to a candidate selected for the post. Nothing was mentioned in the aforesaid BP regarding seniority. It was a creation of the self-imagination of internal candidates. It may only affect the emoluments to which such a candidate may be entitled to.

24. Anything said either in the appointment letter or in any of the BPs which runs contrary to the plain language of Regulation 10(9) and 87 will not stand in the way for this Court to form an opinion that the seniority of a direct recruit is to be counted from the first date of their joining after which they were sent for training. The period therefor is irrelevant. It may change from time to time.

25. For the reasons mentioned above, the present appeals are allowed. The impugned judgment passed by the High Court is set aside. The opinion expressed by the Division Bench of the High Court to the extent that the seniority will commence from the date the candidate starts his probation is totally erroneous. Such a view is not supported by the plain language used in the Regulations.

26. Pending application(s), if any, shall stand disposed of.