

IN THE COURT OF THE STATE COMMISSIONER FOR RPwDS
AT MALAKPET, HYDERABAD

Present: Smt. B. Shailaja, M.A., LLB.,

Order dated 28 October, 2024

Case No. RPwD Act, 2016/247/2022

Between

Sri K. Sravan Kumar Gupta,
ADE, TS TRANSCO,
Hyderabad.

... Petitioner

AND

The Chairman & Managing Director,
TS TRANSCO, Vidyut Soudha,
Khairatabad, Hyderabad.

... Respondent

Petitioner Claim:

The Court of the State Commissioner for RPwDs received a petition from Sri K. Sravan Kumar Gupta, Orthopedically Disabled, working as ADE in TS Transco, Vidyut Soudha, Hyderabad, alleged injustice done to him by reverting from the post of DE to ADE and requested to promote him as DE. Brief facts of case are the following:

The petitioner stated that he was recruited as Assistant Engineer (AE) in the Erstwhile APSEB in 1997 under physically handicapped quota. Subsequently he was promoted as ADE on 20-03-2006 on regular seniority in the combined AP TRANSCO and he completed (5) years service by 23-1-2011 and he further informed that as per service regulations he is eligible for promotion to the post of Divisional Engineer (DE) by 19-03-2011 after completion of (5) years.

The petitioner further submitted that under the Regulation 14 (a) (1) of APSEB Service Regulations part-II (adopted by TS TRANSCO), he was promoted to the post of the DE during the regular promotions to the regular vacancies vide T.O.O No. (CGM(HRD)-Per) Rt. No. 263 Date: 12-06-2017 and he has been working as DE from 12-06-2017. In the promotion orders it was mentioned that promotion orders are subject to finalization of allocation

of employees between APTRANSCO and subsequent change in the seniority, if any.

It is further stated that AP employees were allotted to Telangana State than the allocable strength, with the change in seniority and he was demoted to the lower post of ADE as general candidate by ignoring his disability candidature in promotion and also informed that the un-filled PwD vacancies during the June 2017 were carry forwarded beyond the stipulated panel years in contrary to the service regulations.

Process of Application :

The Court of the State Commissioner for RPwDs, Telangana has sent the petition of the applicant to the Chairman & Managing Director, TS TRANSCO for conducting detailed enquiry into contents raised in the petition and to take appropriate action on it and arrange to send Action Taken Report to the Court of the State Commissioner, RPwDs.

The Chairman & MD, TS TRANSCO has submitted detailed report to the State Commissioner for RPwDs briefing the facts of the case as narrated below:

Consequent to the formation of Telangana State on 02.06.2014 and vide Circular Memo dt:27.05.2015, orders were issued regarding promotions to the State cadre posts which fall entirely in the State of Telangana.

"Roster points shall be commenced afresh in the State of Telangana in respect of the State cadre posts which come under the purview of the process of allocation of employees between APTRANSCO and TSTRANSCO and Roster points shall be continued in respect of the posts, which do not come under the purview of the process of allocation"

Accordingly, promotion orders were issued from ADE to DE in the year 2015 and 2016 duly implementing the Rule of Reservation in respect of Disabled persons as per Service Regulations and Government orders issued from time to time. In the above said panels, Sri K. Sravan Kumar Gupta, ADE/Elecl. did not figure as he was much junior in the seniority list of ADEs.

In the approved panel dt. 09.06.2017, the Roster points pertaining to PH-VH & PH-HH were carried forward due to non-availability of eligible candidates. Sri K.Sravan Kumar Gupta, ADE was considered for promotion as DE/Elecl. as per turn i.e., as per seniority and accordingly, temporary

promotion orders were issued as DEs vide T.O.O. Rt.No.263 Dt.12.06.2017 subject to review of seniority/promotion after finalization of allocation of employees between APTRANSCO & TSTRANSCO as per the final outcome of the Court cases pending in the Hon'ble High Court and also informed that no further panels from 2018 to 2022 were drawn for promotions (ADE to DE) in TSTRANSCO.

It is further stated that as per the Hon'ble Supreme Court orders and implementation of various reports of Hon'ble Justice Dharmadikari, One Man Committee in respect of final allocation of employees between AP and TS Power Utilities, all the promotions issued after formation of TS TRANSCO have been cancelled along with the promotion orders issued to Sri K. Sravan Kumar Gupta.

All the promotions have been reviewed w.e.f. 02.06.2014 based on the seniority list as on 02.06.2014 which includes TS Transco employees as well as the employees allocated by Hon'ble Justice Dharmadikari, One Man Committee from AP TRANSCO to TS TRANSCO and as per the Hon'ble Supreme Court Judgment, duly following all the orders issued by the Government from time to time and promotions have been considered subject to review as per the Clarification dt.29.05.2021 issued by the Government of Telangana with regard to fixation of seniority based on "merit ranking"; and also in terms of the Circular Memo dt. 24-10-2019 issued by the Scheduled Castes Development Department, Government of Telangana on the implementation of the rule of reservation to SCs/STs in promotions conferring "consequential seniority" or otherwise and implementation of "catch-up rule".

In review panel dt.09.06.2017 (promotions from ADE to DE), Roster point pertaining to OH was filled by eligible OH candidate and the Roster points of PH-VH & PH-HH(W) were carried forward as per clarification dt.08.03.2017 of the State Government due to non-availability of eligible PH-VH & PH-HH(W) candidates.

In the review panel dt.9.2.2021 (AE/AAE to ADE), Smt. T. Srilekha, AE (PH-VH) has figured in the seniority list of AEs and promoted as ADE as per seniority. Fresh panel was drawn on dt.15.11.2022 to fill balance vacant posts of DEs/Elecl. by promotion of ADE/Elecl. as DE/Elecl. The Roster point of PH-VH which was carried forward in the previous panel year was filled with Smt. T. Srilekha, ADE (PH/VH candidate) i.e., promoted as Divisional Engineer (DE) in the subsequent panel as a policy matter, a decision was taken by the Management to consider promotions duly

exempting from the required service for the promotion posts in review of promotions as per final allocation of employees between APTransco and TS Transco. The next Roster point 131 (PH-HH) was filled by Sri K. Ram Mohan (PH-OH) who is senior to Sri K. Sravan Kumar Gupta in ADE cadre. The name of Sri K. Sravan Kumar Gupta, ADE/Elecl, has not come up for promotion as DE/Elecl. either in PH quota or as per seniority as substantial number of employees who were seniors to him were now allocated to TS Transco and promoted as DEs.

Consequent to the Hon'ble Supreme Court Judgment, all the employees pertaining to various services who were promoted temporarily after formation of Telangana State i.e. after 02.06.2014 in the panel years from 02.06.2014 onwards to till to date have been cancelled w.e.f. 21.11.2022 & 22.11.2022 and all employees SC, ST, PH, BC & others including Sri K. Sravan Kumar Gupta, ADE have lost their service rendered in the previously promoted category. Subsequently promotion orders were issued to all the employees who were allocated from APTRANSCO to TSTRANSCO along with the employees of TS Transco as per the combined seniority list as on 02.06.2014 as per eligibility w.e.f. 21.11.2022 & 22.11.2022. As a result, certain employees were re-promoted to the same cadre and some were reverted to lower cadre posts. As a consequence, the total cancellations of promotions are 854, re-promotions are 772 and Reversions are 105. The above data has been already submitted to the Hon'ble Supreme Court of India in view of the contempt case filed by certain petitioners against TSTRANSCO, and the same was dropped on 12.12.2022 by the Hon'ble Supreme Court of India.

As detailed above, no injustice has occurred to Sri K. Sravan Kumar Gupta, ADE and no deviations were made and promotions were issued in accordance with Rules and Regulations in vogue.

In view of the above reply, the Court of the State Commissioner called further remarks from K. Sravan Kumar Gupta on the reply furnished by the TSTRANSCO. The brief facts of the reply as stated below:

The petitioner informed that TSTRANSCO does not have the powers to relax/exempt the conditions mentioned therein. In the present case eligibility condition for the promotion was violated. Further the post in a panel year was carry forwarded to 5th panel year instead of next panel year.

The Government instructed that the carry forward vacancies in respect of SC/ST/PH shall be taken into account when the commencement of fresh roster happens. The same is not followed by the TSTRANSCO as a

result, the point of the OH at 156th point is not yet filled and one PH vacancy is not yet filled. When there is a presence of 188 candidates in a cadre, the roster point of PH from Point 1 to 188 i.e., (6) candidates are to be ensured.

It is to submit that the first court case happened in 2015 and thereafter several petitions were filed, finally the litigations were settled by the Honorable Supreme court vide it's judgment dated 07.12.2020. In between several panel years had passed. He stated that he was promoted in the seniority in 2017. Till the filing of the contempt petition in 2022, the promotions were given in many cadres/posts as there were no interim or stay orders. TSTRANSCO submitted in it's affidavit dated 07.12.2022 to the Hon'ble Supreme Court that promotions were given till 2022 every year from 2015. Hence, the contention of the TSTRANSCO that "no further panels from 2018 to 2022" due to the matter being sub-judice is wrong. It is pertinent that TSTRANSCO filed an affidavit on 07.12.2022 regarding cancellation.

Petitioner further submitted that all the promotions between 02-06-2014 and 21-11-2022 were cancelled and the service in the promoted category as per the TRANSCO was ignored. As on 21.11.2022, Smt. T.Srilekha is AE only. DE promotion was directly given violating the condition of "feeder cadre" It is to submit that he was the immediate junior to Sri. K Ram Mohan in PH category. The post given to Smt. T Srilekha in panel year 2022 is not of the previous panel year 2021 but it is of 2017. The word "Previous Panel Year" mentioned there is incorrect.

It is to bring to the notice of the Court that as per the seniority list of AEs as existing on 02.06.2014, Smt.T Srilekha (VH,Sl. No.147) and Sri.P. Nagaprasad (HH Sl. No.370) and Sri. M. Seshachalam (HH Sl. No.371) all three were AEs till 21.11.2022. But the VH person was promoted to DE on 21.11.2022 and the HH persons remained as AEs even today. Thus TSTRANSCO did not follow the rules. As submitted in my appeal dt. 28.11.2022, no backlog panel was initiated during 2018 as the existing engineers in the cadre of DE were meeting the adequacy. It is not fact that panel in 2018 to 2022 was not happened due to sub-judice. It is a fact that promotions to PH were given after 2017 and even in the year 2021, Sri. M. Seshachalam was promoted as ADE on 24.03.2021.

On the further reply furnished by the petitioner, this Court sought some information from the TSTRANSCO on the contents raised by the petitioner, subsequently, the TRANSCO has submitted their reply to the Court of the State Commissioner. After thorough examination of the reports

submitted by both the petitioner and respondent, the Court of the State Commissioner issued summons to the both the parties to appear before the State Commissioner for RPwDs to hear the case. Both the parties have attended for the hearing and submitted their plea. The Court of the State Commissioner has asked to submit their Service Regulations of TS TRANSCO and the authorities asked some time to submit their reply. Subsequently, TS TRANSCO has submitted their Service Regulations to the Court of the State Commissioner.

The Court of the State Commissioner issued summons again to both the parties to attend for hearing and both the parties have attended for hearing. After careful examination of both parties arguments, the State Commissioner for RPwDs has asked TSTRANSCO to submit cadre-wise promotions list (Panel-wise) and names and categories of the promoted candidates. Subsequently, the TSTRANSCO has submitted only panel wise and promoted list along with roster point and not submitted the names of promoted candidates. In view of the above the State Commissioner addressed a letter to TSTRANSCO on 08-08-2024 to submit names of promoted candidates for finalization of the case. The TSTRANSCO has submitted the information on the following on 13-09-2024:

1. Panels executed from 02-06-2014 to 20-11-2022 in respect of AE/Elecl. To ADE/Elecl. and up to the cadre of CE/Elecl., with Roster points details, list of names of the promotes along with promotion orders (before review of panels).
2. Review panels executed on 21-11-2022 in respect of AE/Elecl. to ADE/Elecl. and up to the cadre of CE/Elecl., with Roster points details, list of name of the promotes along with promotion orders (after review of panels).

OBSERVATIONS OF THE STATE COMMISSIONER:

As seen from the contentions of both the petitioner and Respondent along with list of documents submitted by them, the following observations are made:

1. Sri Sravana Kumar Gupta was joined as AE in APSEB in 1997 he got promotion as ADE in 2006.
2. The employees of the AP TRANSCO were provisionally bifurcated among (2) entities. Sri Sravan Kumar Gupta petitioner was allotted to Telangana in the cadre ADE/Elecl.

3. The TS TRANSCO has effected promotions to the cadre of ADEs /Elecl. to the cadre of DE/Elecl. in the year 2017 vide T.O.O.No.CGM(HRD)-per) Rt. No.26 dated 12-06-2017 of Transmission Corporation of Telangana Ltd., in which Sri K. Sravan Kumar Gupta was promoted as DE/Elecl. in the general category in the seniority list with the following conditions:

(a) The promotions issued in above order are purely temporary and liable for termination at any time without notice and without assigning any reasons thereto.

(b) These orders are subject to outcome of the WP No.16660 of 2015 & WP No.39282 of 2015 and batch pending in Hon'ble High Court of Judicature at Hyderabad for the State of Telangana and State of Andhra Pradesh.

(c) These orders are also subject to finalization of allocation of employees between APTRANSCO and TSTRANSCO and subsequent change in the seniority, if any.

(d) These orders are also subject to the condition that it shall be reviewed after completion of the process of final allocation of cadre strength, vacancies and employees between the successor States by the Government and the persons, so promoted meanwhile, shall not have any right on such promotion.

4. While taking up promotions after 2014 the TS TRANSCO stated that they have followed the rule of reservation in respect of PwDs and when the adequacy was reached, they have considered general candidates in the vacant positions reserved for PwDs stating that they need not follow the rule of reservation as the adequacy was achieved. The contention of the TS TRANSCO is not in accordance with the established rule as they have shown the unfilled carry forward vacancies also as filled category and showed the status of achieving adequacy without giving promotion. As such the TS TRANSCO has not followed the spirit of rule of reservation in promotions to the PwDs and allowed promotion to the general candidates in the seniority list against the vacant posts reserved for PwDs. Thereby the next line persons belonging to PwDs category were adversely affected.

5. Smt. T. Srilekha who was working as AE/Elecl. was notionally promoted as ADE vide TOOCGM (HRD) Rt. No.449, dated 21-10-2017 of Transmission Corporation of Telangana. These orders were cancelled vide TOOCGM (HRD) Rt. No.3956, dated 21-11-2022 of

Transmission Corporation of Telangana stating that since the said notional promotion was ordered therein was subject to the stipulated conditions laid in the order. However, again Smt. T. Srilekha was promoted as ADE/Elecl. vide TOOCGM (HRD) Rt. No.3948, dated 21-11-2022 of Transmission Corporation of Telangana on the same day of the issue of cancellation orders. Further, Smt. T. Srilekha was also promoted as DE/Elecl. vide TOOCGM (HRD) Rt. No.3953, dated 21-11-2022 of Transmission Corporation of Telangana, without following the eligibility norms prescribed for promotion from one cadre to another cadre. This is a double promotion given to Smt. T. Srilekha in contravention of the terms stipulated in Memo No. GM (HRD&Trg)/DS(P)/AS(P)/PO-III.1/153/2003, dated 28-11-2003 of the Joint Managing Director (HRD, Comml, IPC & Reforms) of Transmission Corporation of AP Limited, in which it was mentioned that during the discussions on 10-11-2003 with all the Chairman and Managing Directors of Discoms and AP TRANSCO a consensus decision was taken that there should not be any relaxation either in respect of educational qualifications or number of years of service stipulated in service regulations while considering for promotions/appointments in all categories of posts. Hence all the Chief Engineers, Supdt., Engineers, Divisional Engineers and all the functional heads working in the AP TRANSCO are hereby instructed not to give any relaxation either in respect of educational qualifications or number of years of service stipulated in service regulations while considering the promotions/appointments in all category of posts. The TG TRANSCO has not furnished any amendments to the above rule position.

Further, as per 24 (1) (a) of Service Regulations Part.II of A.P.S.E.B it was mentioned that no employee shall be eligible for promotion to a higher post unless he is an approved probationer in the category from which promotion to the higher post is admissible.

As per the regulations, the method of recruitment for the post of Divisional Engineers/Executive Engineers/Divisional Engineers Ordinary Grade, the promotion channel is created from the cadre of Asst. Divisional Engineer who fulfills the following conditions:

- (i) Must be a full member or an approved probationer in the category of Asst. Divisional Engineers,
- (ii) Must have rendered service as Assistant Divisional Engineer, if he is an Engineering Graduate for not less than;

- (a) 5 years, if recruited by transfer; or
 - (b) 6 years if recruited direct including a year spent on training; and
- (iii) (a) Must possess the B.E.degree in Electrical, Civil, ²Mechl. Engineering or Telecommunication Engineering as the case may be, of a university in India, established or incorporated by or under a Central Act Provincial Act or a State Act or any equivalent qualification or
- (b) If not possessing the qualification indicated in (a) ³Must have shown exceptional merit and must have worked as Asst. Divisional Engineer for a period of not less than 10 years.

In contrary to the above Rules/Regulations Smt. T. Srilekha was promoted from AE to ADE/Elecl. and then to the post of DE/Elecl. on the same day immediately after her reversion from the post of ADE to AE i.e., on 21-11-2022 along with some employees also. The TG TRANSCO could not provide proper justification for relaxing the above Rules/Regulations either by the State Electricity Board or Government with substantial evidence for such double promotion.

6. It is also observed that the TS TRANSCO has reverted all the transfers (Promotions) affected from 2014 to 2022 due to merger of some employees in different cadres who joined from AP TRANSCO. The allegations leveled by Sri K. Sravan Kumar Gupta in reverting his case from DE to ADE cannot be faulted as the decision was taken as per the conditions stipulated in the promotion order itself. Sri K. Sravan Kumar Gupta is one among many who were reverted back. The TS TRANSCO has reviewed all the positions again by clubbing the two categories and prepared a common seniority allowing the persons came from AP and fixed the seniority and considered for promotions basing on their eligibility by following the seniority in all cadres, but not properly followed the rule of reservations in effecting promotions to the PwDs.
7. The promotions are effected by following the fresh roster points after review of all the positions by clubbing the two categories of the employees of TS TRANSCO and the employees came from AP and prepared a common seniority and fixed the seniority and considered for promotions basing on their eligibility by following the seniority in all cadres. The roster points reserved for persons with disabilities are

also to be considered afresh and should not be considered the carry forward vacancies.

8. Sri K. Sravan Kumar Gupta is already working as ADE as on 02.06.2014 and he was reverted to the ADE from the promotion post of DE/Elcl. in the general category, which was effected in the year 2017. As such he is the senior to Smt. T. Srileka, who was given double promotion.
9. After arriving the common seniority, fresh rosters were also created for effecting promotions in which the un-filled carry forward vacancies reserved for PwDs were also counted for showing it as adequacy achieved. Thereafter certain vacant posts as per roster reserved for PwDs were filled with general category candidates as per seniority list. Thus caused injustice to certain category of PwDs who lost their promotional opportunity who are available in the seniority list.
10. The adequacy for implementation of reservation shall be calculated after filling up of the reserved vacancies with the persons with disabilities. The vacancies reserved for persons with disabilities shall be filled in the roster points reserved for persons with disabilities, otherwise the vacancies shall be carry forward, but not to be filled with other category of persons, when there are persons with disabilities to be considered for promotion.
11. It is observed at any point of time from 2014 to 2022 the adequacy in promotions to the PwD employees were not achieved against the posts reserved for them as per roster. Accordingly, as on 2022 the posts reserved for DEs shall be coming to (6) against the total strength of in the cadre of DEs. If the total numbers of reserved positions are filled by the PwDs against the total available posts of (6), the case of Sri Sravan Kumar Gupta would have been covered in effecting promotions against the post of DE reserved for PwDs.

RECOMMENDATIONS OF THE STATE COMMISSIONER:

In view of the above observations the following recommendations are made:

1. The TG TRANSCO has not made any notional panels before giving promotions in 2022 after review of previous promotions from 2014 to 2021 by which the reservation for PwDs were affected in fulfilling the

vacant posts reserved for PwDs. Hence TG TRANSCO shall review the reservations meant for PwDs in the promotions.

2. While giving promotions to the cadres, the TG TRANSCO has not properly followed the Rule of Reservation when there are unfilled vacant positions are available against the posts meant for PwDs, the general candidates in the seniority list were given promotions stating the reasons of adequacy achieved, though adequacy was not achieved. Therefore the eligible PwDs in the seniority list were adversely affected loosing the opportunity of promotions for which they are legally entitled. Hence the case of Sravan Kumar Gupta needs to be examined after reviewing the above rule positions as noted in the above observations, as the adequacy of achievement can only be fulfilled where all the posts reserved for them are filled by the PwDs as per the existing guidelines/Rules.

Therefore in consideration of the above recommendations the TG TRANSCO shall take up the review of all the promotions of PwDs against their legitimate quota of 3% in promotions to the cadre of DE/Elecl. with reference to fresh roster points started after bifurcation of the State i.e., after 02-06-2014.

The TG TRANSCO shall send the Action Taken Report on the above recommendations to the State Commissioner as per Section-81 of the Rights of Persons with Disabilities Act, 2016.

Accordingly, this case is disposed off.


STATE COMMISSIONER

To

The Sri K.Sravan Kumar Gupta, ADE/Elecl, TS TRANSCO.

The Chairman & Managing Director, TG TRANSCO, Vidyut Soudha.