

3. By a Notification dated January 11, 2022, the Andaman and Nicobar Administration promulgated the Andaman and Nicobar Administration (Assistant Engineer of Electricity Department) Recruitment Rules, 2018. Under the said Rules, two channels of promotion were recognized, with reservation of 50% each, for Diploma holders and Degree holders in the concerned branch.

4. On February 15, 2023, a Promotion Order was issued, thereby promoting the private respondent nos. 2 to 4, who had been appointed on October 01, 1999 and held Degrees (as opposed to Diplomas) from the inception of their service to the post of Assistant Engineer.

5. The respondent no. 1 gave several representations protesting against such promotion of the private respondents by jumping the queue in seniority over the petitioner. However, further promotions were made and the representation of respondent no. 1 was turned down by the Administration vide Order dated January 25, 2024.

6. Being thus aggrieved, the respondent no. 1 moved Original Application No. 351/273/2024 before the Kolkata Bench, Kolkata (Circuit sitting at Port Blair) of the Central Administrative Tribunal. By its judgment dated November 01, 2025, the Tribunal allowed the application, thereby quashing and setting aside the impugned order dated January 25, 2024, whereby the representation of the respondent no. 1 was rejected, directing the respondents therein (present petitioners) to conduct a review DPC for considering grant of promotion to the applicant/private respondent no. 1 in the light of the observations given

in the judgment. If found eligible, she was directed to be granted promotion to the post of Assistant Engineer by placing her above the private respondents (private respondent nos. 2 to 4 herein) and also to grant her all consequential benefits within 90 days from the receipt of copy of the judgment by the office of the Administration. It was, however, made clear that the respondent no. 1 would not be entitled to any back wages.

7. Learned counsel for the petitioners-authorities contends that at the time of entry to her service, the respondent no. 1 was only a Diploma holder and obtained her Degree on November 08, 2008. Hence, she became eligible to be considered under the Degree-holder quota only upon completion of 3 years thereafter, that is, from November, 2011. The said decision, it is submitted, was taken on the premise of the judgment of the Hon'ble Supreme Court in *K. K. Dixit and other etc. vs. Rajasthan Housing Board and another (Civil Appeal Nos. 8479-8482 of 2024)*.

8. It is argued by the petitioners that in the said judgment, the Hon'ble Supreme Court had observed that the post of Project Engineer (Junior), recruited on the basis of Diploma, upon their acquiring the qualification of 'AMIE', were not entitled to count their experience of service prior to acquisition of such qualification for the purpose of eligibility of promotion to the post of Project Engineer (Senior) against the 20% quota fixed for promotion of the post of Degree holder Project Engineer (Junior). In order to claim promotion against such 20% quota,

it was held, the 3 year's experience of service must be acquired after obtaining the qualification or Degree of AMIE.

9. Learned counsel for the petitioners submits that whereas respondent no. 1 became eligible for promotion only from November, 2011, private respondent nos. 2 to 4 became so eligible much earlier, in October, 2004, after completion of 5 years of service in terms of the extant Recruitment Rules, since they were Degree-holders from the inception of their service. In view of the above, when the petitioner-authorities considered candidates for promotion up to the 1999 Batch, private respondent nos. 2 to 4 came much higher in the seniority list than respondent no. 1.

10. Learned counsel appearing for the petitioners-authorities next places reliance on *Pawan Pratap Singh and others vs. Reevan Singh and others* reported at (2011) 3 SCC 267 where it was held, *inter alia*, that *inter se*, seniority in a particular service has to be determined as per the service rules and that the date of entry in a particular service or the date of substantive appointment is the safest criterion for fixing seniority *inter se* between one officer and the other or between one group of officers and the other, recruited from different sources. The Hon'ble Supreme Court further held that seniority cannot be given on retrospective basis when an employee was not even born in the cadre and by doing so it may adversely affect the employees who have been appointed validly in the meantime.

11. Thus, learned counsel contends that the learned Tribunal erred in law and acted without jurisdiction in directing respondent no. 1 to be considered in the seniority list from the date of her appointment despite she having acquired her Degree subsequent to the other employees who were appointed previously on the basis of their Degrees.

12. Learned counsel for the respondent no. 1, who was the petitioner before the Tribunal, argues that seniority and eligibility are two different concepts. It is contended that although 50% quotas were maintained separately for the purpose of eligibility for promotion with regard to Degree holders and Diploma holders respectively, the seniority list of all the employees has all along been a combined one and as such ought to have been taken into consideration in granting promotion.

13. Learned counsel cites *R.B. Desai and another vs. S.K. Khanolker and others*, reported at (1999) 7 SCC 54, for the proposition that if the rule does not give any priority to candidates acquiring earlier eligibility, in service law, seniority has its own weightage and unless and until the rules specifically exclude this weightage of seniority, it is not open to the authorities to ignore the same. Learned Counsel also cites *A.K. Raghmani Singh and others vs. Gopal Chandra Nath and others* reported at (2000) AIR SC 1580 for the same proposition.

14. Upon hearing learned counsel for the parties, the Court arrives at the following conclusions:

15. As elucidated in the cited judgments, it transpires that there are two cardinal principles permeating the jurisprudence on the subject under consideration:

- i) Seniority and eligibility are two different concepts in the context of promotion;
- ii) Each case is to be decided on the basis of the governing Recruitment Rules.

16. In order to decide the issues at hand, Serial no.11 of the Schedule to the Recruitment Rules for the post of Assistant Engineer in the Electricity Department is to be considered and is set out below:

11.	<i>In event of recruitment by promotion/deputation/absorption, grades from which promotion/deputation/absorption to be made</i>	<p>PROMOTION:</p> <p>(a) 50% from Junior Engineers in Pay Level-6 (Rs.35400-112400) with 5 (five) years regular service in the grade and possession of Degree in Electrical/Electrical and Electronics /Mechanical Engineering from a recognised University</p> <p>(b) 50% from Junior Engineers in the Pay Level-6 (Rs.35400-112400) with 5 (five) years regular service in the grade and possession Diploma in Electrical/Electrical and Electronics /Mechanical Engineering from a recognised University/Institution.</p> <p>(c) Both Degree and Diploma have to undergo training in 0.4/11/33 KV T & D System, HY Switchgears and Power Plant equipments operation and maintenance as per DOPT OM dt. 31.12.2010.</p> <p>Note: Where juniors who have completed their qualifying/eligibility service are being considered for promotion,</p>
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		<p><i>their seniors would also be considered provided they are not short of the requisite qualifying/eligibility service by more than half of such qualifying/eligibility service or two years, whichever is less, and have successfully completed their probation period for promotion to the next higher grade along with their juniors who have already completed such qualifying/eligibility service.</i></p>
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17. A bare perusal of the above provision clarifies two aspects. First, for the purpose of promotion, two different channels have been created by way of retaining 50% quota each for Degree holders and Diploma holders respectively, in Electrical/Electrical and Electronics/Mechanical Engineering from a recognised University/Institution. Secondly, insofar as the requirement of 5 years' regular service is concerned, which governs both the streams, there is absolute parity in the grade and pay scale as well as cadre, which is the feeder post for the promotion, in respect of Degree holders as well as Diploma holders.

18. Thus, no discrimination or special preference has been incorporated in the eligibility criteria for promotion between Degree holders and Diploma holders, either in respect of reservation (50% quota for each) or in respect of the tenure or grade of feeder cadre [Junior Engineers in Pay Level-6 (Rs.35400-112400) with 5 (five) years regular service in the grade for both].

19. It has to be taken into consideration that there is a stark distinction between 'eligibility' and 'seniority', as recognized in *K.K. Dixit*

*and other (supra)*¹ as well, which has been relied on heavily by the petitioners themselves. The Hon'ble Supreme Court, in paragraph no.19 of the said report, categorically observed that the eligibility list could not be mistaken for seniority list, which must remain common based upon merit assessed at the time of selection for recruitment. The Apex Court went on to observe that only if the selection process had been different, there could have been any scope to argue for separate seniority list. In absence of any legal stipulation for altering the initial seniority, pre-determined on the basis of merit at the time of initial selection and date of regular appointment, the seniority list cannot be altered only because some Diploma holder Project Engineers (Junior) acquired the qualification of AMIE equivalent for Degree.

20. In *Pawan Pratap Singh (supra)*², also cited by the petitioners, the scope of consideration was rather different than the present case. The summary given in paragraph 30 of the said judgment is tell-tale in that regard. It was held therein that the effective date of selection has to be understood in the context of the service rules under which the appointment is made. While considering whether seniority should be reckoned from the date of occurrence of the vacancy or the date of appointment, the Hon'ble Supreme Court held that seniority cannot be reckoned from the date of occurrence of the vacancy and cannot be given retrospectively unless it is expressly provided so by the relevant service rules. By way of explanation, the Hon'ble Supreme Court observed that it

¹ *Civil Appeal Nos. 8479-8482 of 2024*

² (2011) 3 SCC 267

is so because seniority cannot be given on retrospective basis “when an employee has not even born in the cadre and by doing so it may adversely affect the employees who have been appointed validly in the mean time”.

21. Thus, the context of use of the expression “born in the cadre” in the said decision was not the acquisition of further eligibility but by way of comparison between the date of occurrence of vacancy and actual appointment vis-à-vis seniority. Hence, the said judgment does not come to the aid of the petitioners herein in any manner.

22. *Per contra*, in *R.B. Desai and another (supra)*³, a Three-Judges’ Bench of the Hon’ble Supreme Court categorically held that it is an accepted principle in service jurisprudence that when persons from different sources enter a common cadre, their seniority will have to be counted from the date of their continuous officiation in the cadre to which they are appointed. It was further observed that if at the time of consideration for promotion the candidate concerned has acquired eligibility, then unless the rules specifically give an advantage to a candidate with earlier eligibility, the date of seniority should be given precedence over the date of eligibility. In the said case, the rule under consideration was held not to give any priority to the candidates acquiring earlier eligibility and it was observed by the Hon’ble Supreme Court that seniority has its own weightage and unless and until the rules

³ (1999) 7 SCC 54

specifically exclude the weightage of seniority, it is not open to the authorities to ignore the same.

23. In *A.K. Raghumani Singh and others (supra)*⁴, the Hon'ble Supreme Court discussed the placement in the relevant rules of the conjunction "with" between the criteria of Degree and six years' regular service in the grade, which were the determinants in the concerned service rules. It was observed that given the plain meaning of the phrase, the Court would not be justified in reading a qualification into the conjunctive word and imply the word "subsequent" after the word "with". Even on a point of principle, it was held, it would be unreasonable to distinguish between the nature of the regular service required, as if the service in the grade subsequent to the obtaining of the necessary educational qualification were qualitatively different from the service in the grade prior thereto.

24. The ratios laid down in both the above decisions are squarely applicable to the present case.

25. On the date of consideration for the purpose of promotion, the respondent no.1 had already 15 years of service behind her as a Degree holder.

26. From Clause 11 of the governing Rules, it is crystal-clear that the expressions "possessing Degree" and "possessing Diploma" in both Clauses (a) & (b) were linked with the self-same criterion of 5 years' regular service in the grade of Junior Engineers in Pay Level-6 (Rs.35,400-Rs.1,12,400/-). Hence, there is absolute parity in the Rules

⁴ (2000) AIR SC 1580

insofar as the cadre/grade which provides the feeder post for the promotion is concerned. No distinction has been drawn between Diploma holders and Degree holders insofar as eligibility for promotion is concerned. There is complete parity between the two in respect of the required period of regular service as well, it being 5 years for Degree holders as well as Diploma holders.

27. In *K.K. Dixit and others (supra)*⁵, the concerned service Rule is discussed in paragraph 6 of the said judgment, in Column No.6 of which the expression used was “Post to be filled in by promotion from amongst the P.E.Jr’s who are Degree holders with three years total experience of service”. On the other hand, the “Post to be filled in by promotion from P.E.Jr’s who are Diploma holders” was qualified by the phrase “with 7 years total experience of service”.

28. Thus, there was disparity between the tenure of experience required for Degree holders and Diploma holders, with a distinct edge of 4 years’ experience being given to Degree holders, since they were required to have only 3 years’ total experience as opposed to 7 years for the Diploma holders.

29. Thus, the concerned Rules in the said case struck a note of disparity between Degree holders and Diploma holders and preference was given to Degree holders in the eligibility criterion itself.

30. As opposed thereto, in the present case, as discussed earlier, there is total parity between Degree holders and Diploma holders insofar as the

⁵ *Civil Appeal Nos. 8479-8482 of 2024*

eligibility criteria are concerned, both with respect to the feeder cadre and tenure of experience.

31. The next important aspect is the use of the conjunction “and” in the Recruitment Rules in the instant case to connect the educational qualification (Degree/Diploma) with the service experience and grade.

32. Thus, the possession of the Degree or Diploma is not tied up with the years of service, as opposed to the service Rules in *K.K. Dixit and other (supra)*⁶. Whereas in the said report, the total experience of 3 years and 7 years, respectively for Degree holders and Diploma holders, was directly linked with the Degree/Diploma by use of the expression “with”, in the service Rules governing the present parties, there is no such link at all between the educational qualification and the tenure and grade of service insofar as the promotion is concerned. There is a gulf of difference between “Degree/Diploma with 3/7 years’ service” (which ties up the tenure with the educational qualification) and “Degree/Diploma *and* 5 years’ regular service” (which disjuncts the two).

33. On a plain reading, it is evident that Serial no.11 of the concerned Recruitment Rules in the present case merely stipulates the eligibility criteria for promotion and does not touch the seniority aspect at all.

34. Hence, in terms of the said rules, only 50% quotas are reserved for both Degree holders and Diploma holders, without creating any disparity or preference in favour of either. Thus, the quotas pertain purely to the eligibility for promotion, without linking it to experience/seniority.

⁶ *Civil Appeal Nos. 8479-8482 of 2024*

35. It is rather obvious that the relevant juncture for ascertaining whether eligibility criteria for promotion are met by a candidate is not the date of appointment but the date of promotion. In the present case, promotion up to the 1999 Batch was admittedly considered by the petitioners-employers in 2023, when the respondent no.1 already had 15 years of service behind her with a Degree and thus squarely came within Clause (a), pertaining to Degree holders.

36. Even otherwise, having been regularized in service on October 1, 1999 and appearing above private respondent nos. 2 to 4 in the combined seniority list maintained by the petitioner-authorities, respondent no. 1 was fully eligible for promotion under the category of Degree holders, as opposed to Diploma holders, on the date of consideration for promotion.

37. It is an admitted position in the present case that a combined seniority list is maintained for all Junior Engineers of the grade from which the petitioner comes.

38. Hence, insofar as seniority is concerned, there could not be discrimination only on the ground of the eligibility criteria, whether a candidate is a Degree holder or a Diploma holder.

39. Such proposition was succinctly elaborated in paragraph no.9 of *R.B. Desai and another (supra)*⁷, which is quoted hereinbelow :-

“9. We are unable to agree with this reasoning of the High Court. As noticed above, promotion to the post of AFOs is made from the post of

⁷ (1999) 7 SCC 54

RFOs to the extent of 75% of the vacancies. There is no dispute that both the appellants and the first respondent belong to the cadre of RFOs. The only difference between them being that the appellants were promotees in the said cadre while the first respondent was a direct recruit. It is an accepted principle in service jurisprudence that once persons from different sources enter a common cadre, their seniority will have to be counted from the date of their continuous officiation in the cadre to which they are appointed. On facts, there is no dispute that the appellants entered the RFOs' cadre on a date anterior to that of the first respondent, therefore, in the cadre of RFOs, the appellants are senior to the first respondent. However, to be considered for promotion, the rule required RFOs to acquire the eligibility as provided therein. Therefore, the question for consideration is: can the acquisition of an earlier eligibility give an advantage to the first respondent as against the appellants when an avenue for promotion opens in the cadre of ACFs even though at that point of time the appellants had also acquired the required eligibility? We are of the opinion that if at the time of consideration for promotion the candidates concerned have acquired the eligibility, then unless the rule specifically gives an advantage to a candidate with earlier eligibility, the date of seniority should prevail over the date of eligibility. The rule under consideration does not give any such priority to the candidates acquiring earlier eligibility and, in our opinion, rightly so. In service law, seniority has its own weightage and unless and until the rules specifically exclude this weightage of seniority, it is not open to the authorities to ignore the same."

40. Thus, the argument of the petitioners that the seniority of respondent no. 1 ought to be considered in the context of her acquisition of a Degree is patently contrary to the Recruitment Rules as well as the settled law in the field.

41. In view of the above findings, we arrive at the conclusion that the learned Tribunal was justified in directing the petitioners-authorities to conduct a review DPC for the purpose of consideration of grant of promotion to the applicant/respondent no.1 and, it found eligible, for her to be granted promotion to the post of Assistant Engineer by placing her above the private respondent nos. 2 to 4 and also to grant her consequential benefits as well as in quashing and setting aside the order

dated January 25, 2024, whereby the petitioners-authorities refused the representation of the respondent no.1 for promotion.

42. Accordingly, WPCT/14/2026 is dismissed on contest against the respondent no.1 and ex-parte against the respondent nos. 2 to 4, thereby affirming the impugned judgment dated November 01, 2025 passed by the Kolkata Bench, Kolkata (Circuit sitting at Port Blair) of the Central Administrative Tribunal in Original Application No. 351/273/2024.

43. There will be no order as to costs.

44. Urgent Photostat certified copies of the judgment, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(SABYASACHI BHATTACHARYYA, J.)

I agree

(SMITA DAS DE, J.)