





	<p>5. As far as, the contention of the petitioner that he is senior to the petitioner is concerned the same was rejected. The petitioner who was initially appointed as JE on 18.05.1984 and passed the examination of AMIE/BE on 08.12.1992 whereas the respondent no. 3 acquired the qualification of AMIE/BE on 31.10.1984 i.e. before the joining as JE on 18.09.1989, respondent no. 3 was senior to the petitioner. Therefore, the claim of the petitioner was rightly rejected vide order dated 10.05.2006.</p>
	<p>It was therefore, contended that petition may be dismissed.</p>
	<p>Written submission of the Petitioners in Personal Hearing:-</p> <ol style="list-style-type: none"> 1. The committee should prepare its mind to implement the judgment in true spirit for all concerned rather to think of any particular segment/group of petitioners or respondents so that the litigation in the case be settled in one go. 2. The committee should combine both the cadres (generation & field cadre) as a common cadre for all engineering subordinates as per the judgments in CWP No. 6557 of 1993 & LPA 657 of 1997 and should circulate a common seniority list as per the policy in vogue in which the person who attain the eligibility first should be placed senior. 3. On the basis of the above combined ranking list so prepared, the eligible candidate should be allotted the share quota post in the promotion as per seniority. 4. After working out the fresh exercise and before implementing or recommending it for implementation to any power utility, the said exercise should be made public alongwith documents to be relied upon. There should be no haste/hurry to implement the raw report of the committee without inviting objections as is evident from the previous wrongful actions of the department in 2005. 5. I may be considered for promotion prior to Sh. N. K. Khurana as he is much junior to me and the exercise must be shown to me before implementing the same in the interest of natural justice of transparency and fairness.
	<p>Written submission of the private Respondents in Personal Hearing:- The respondent Shri N.K. Khurana has already submitted representation in CWP no. 8431 of 2007 titled as Narender Sharma & others Vs HPGCL & others and CWP no. 13409 of 2007 titled as Atul Pasrija Vs UHBVNL & others.</p>
	<p>Crux of the above mentioned pleadings:- He was appointed as Fitter in Erstwhile on 16.11.1978. He was promoted as JE on 18.05.1984 and acquired BE in the year December, 1992 The perusal of record reveals that in compliance of decision of Hon'ble High Court, Chandigarh in CWP No. 2953/87 titled as S.P. Kapoor, JE & others Vs HSEB, options were invited from amongst all JEs (including present petitioners at Sr. no. 1 to 7) working in Thermal/Hydel Projects in HSEB vide memo no. 36/NGE/O-105 dt. 11.11.1987. After receipt of options, the suitability of such JEs being absorbed in Generation Cadre or otherwise was duly considered and the decision was circulated vide Memo No.Ch-81/NGE/G-105 dated 29.04.1988. Thus, his allocation as JE/Generation or JE/Field had achieved finality which cannot be undone under the garb of directions contained in Judgement dated 17.12.2004 passed in LPAs no. 657 & 641 of 1997, as claimed by the petitioners.</p>
	<p>Recommendations of the Committee:- It is clear that petitioner of CWP No. 5300 of 2007 Sukhbir Singh was working as Fitter on 16.11.1978 in Erstwhile HSEB. He was promoted as JE on 18.05.1984 and acquired BE in the year December, 1992. In erstwhile HSEB, may it be Hydel/Thermal, their options were called and they were absorbed in Generation/Field Cadre as per their suitability based upon their options received. Their list was duly circulated, which was never objected to by them prior to filing of the present petition. He is estopped by his own conduct to challenge his allocation due to efflux of time. Thus, his allocation as JE/Generation or JE/Field had achieved finality which cannot be undone under the garb of directions in Judgement dated 17.12.2004 passed in LPAs no. 657 & 641 of 1997, as claimed by the petitioner.</p> <p>After due consideration of factual and legal position in this regard, the committee is of the view that the contentions made by the petitioner of CWP No. 5300 of 2007 is not feasible of acceptance.</p>


R.K. Chandan
Member
Secretary



Rajesh Khandelwal
Member-cum-GM/Admn,
UHBVN


V.K. Jain
Member-cum-
GM/UHBVNL

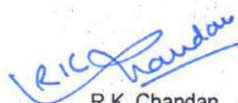

Sukarn Singh
Member-cum-
SE/Admn.-I,
HVPNL


R.R. Goel
Member-cum-
CE/Admn,
DHBVNL



R.K. Bansal
Member-
CE/Admn.,
HPGCL


Poonam Bhasin
Chairperson-
cum-LR/HPUs.

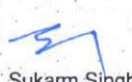
N CWP No. & Title :- CWP No. 1593 of 2008 titled as Satyavir Singh Yadav V/s Haryana Power Generation Corporation Limited & others. [Flag-22]			
	Name of petitioners		Name of respondents
1	Satyavir Singh Yadav	1.	Atul Kumar Jain
		2.	Rajinder Singh Redhu
		3.	Nand Kishore
		4.	Satbir Singh
		5.	Tilak Raj
		6.	Sushil Kumar Goel
		7.	Sanjay Sidhana
		8.	Seema Khurana
		9.	Randhir Singh
		10.	Sanjeev Kumar Garg
		11.	Dharam Pal
		12.	Ravinder Singh
		13.	Chanda Singh
<p>Prayer of the Petitioner in CWP:- For directing respondents no. 1 to consider the claim of the petitioner for promotion as Assistant Engineer from the date his juniors have been promoted and to grant all the consequential benefit.</p>			
<p>Main thrust of the Utility to CWP:-</p> <ol style="list-style-type: none"> 1. The erstwhile H.S.E.B. advertised the post of Junior Engineers/ Trainee (Electrical, Mechanical and Electronics) vide advertisement dated 13/08/1988. 2. It was mentioned in the advertisement that on their selection as JE(T), they can either be posted in any Thermal/ Generation project within the jurisdiction of HSEB including BBMB/ BCB or outside Haryana State or in the field cadre as per the discretion of the Board. It was also mentioned in the advertisement that an undertaking showing their willingness to this effect would be furnished by the Board. 3. On selection the petitioner was offered the post of Junior Engineer (Trainee) in the Generation Cadre vide appointment letter dated 14/09/1989 and it was never objected to by him. The other selected candidates were also appointed in the Generation cadre and in the Field Cadre and it was never objected to by them. 4. By virtue of the powers conferred under Electricity Supply Act , the PSEB service of Engineers was amended vide order dated 19.02.1988 where in beside criteria of for Direct Recruitment to the post of AE and by promotion from amongst Engineering subordinates was laid and two cadre of JEs Generation Cadre , Field Cadre were also created. 5. As per the policy dated 19.02.1988, 121/2% quota posts of AE are filled by promotion from amongst the Engineering Subordinates having AMIE/BE degrees with 5 years service experience as such on the basis of their ranking list of AMIE/BE prepared in terms of instructions issued vide order dated 20.10.1993.As per these instructions , the name of engineering subordinates who passed AMIE/BE degree is entered in the ranking list of AMIE/BE from the date they have passed the said examination and also completed 5 years service as such. 6. As per the policy decision dated 19.02.1988 the petitioner and private respondents were to be considered for promotion against the vacant post of AE in Generation Cadre against 121/2 % quota posts. Some of the JEs appointed in the field cadre were promoted to the post of AE (Adhoc) on the basis of their AMIE /BE degree qualification in the year 1990-1991 against direct vacancy quota posts of AEs in field cadre where as no vacancy quota post of AEs arose in Generation cadre. 7. Sh. Rajinder Singh Redhu & others who were senior in the merit list of their selection and passed AMIE/ BE qualification prior to the JEs promoted in the F the date their juniors in Field Cadre were promoted as AE. 8. The CWP No. 6557 of 1993 was allowed and L.P.A. No. 657 of 1997 preferred by the erstwhile H.S.E.B. was dismissed and it was complied with by promoting 			

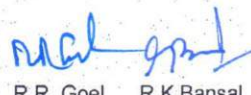

R.K. Chandan

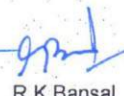
Member
Secretary

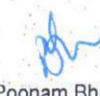

Rajesh Khandelwal
Member-cum-GM/Admn,
UHBVN


V.K. Jain
Member-cum-
GM/UHBVNL


Sukarn Singh
Member-cum-
SE/Admn.-I,
HVPNL



R.R. Goel
Member-cum-
CE/Admn,
DHBVNL



R.K. Bansal
Member-
CE/Admn.,
HPGCL



Poonam Bhasin
Chairperson-
cum-LR/HPUs.


	<p>Sh Rajendr Singh Redhu and others vide order dated 15.09.2005 after re assigning them seniority in the cadre of Junior Engineer. The decision was challenged by Sh. Parveen Arora & others vide CWP No. 16330 of 2005 and the implementation of the order dated 15/09/2005 was stayed.</p>
	<p>It was therefore contended that petition may be dismissed.</p>
	<p>Written submission of the petitioners in Personal Hearing:-</p> <ol style="list-style-type: none"> 1. To prepare a joint ranking list of Engineering Subordinates possessing AMIE/BE degree as was done in the case of Sh. Kashmir Singh and Sh. Rajiv Kumar Mishra vide order dated 07.04.1994 and in the case of Rajender Singh Redhu and others vide order dated 15.09.2005. 2. Employees who are the 'interested party' in the present matter are part of the decision making process of the committee. There is strong apprehension of 'bias' from these employees. If possible, the same may please be avoided. 3. Further promotion to the post of Executive Engineer may please be deferred till the implementation of High Court order dated 09.01.2014.
	<p>Written submission of the private respondents in Personal Hearing:-</p> <ol style="list-style-type: none"> 1. To implement the O/o No. 330/ HPG/GE-623 dated 15.09.2005 which has been issued in compliance to Judgment of Hon'ble Punjab and Haryana High Court dated 29.07.1997 passed in CWP-6557 of 1993 and in LPAs No. 657 and 641 of 1997. It has also been upheld in the Hon'ble High Court Order dated 09.01.2014 passed in CWP 16330 of 2005 titled Parveen Arora & others Vs HPGCL. It is requested to give further promotion of AEE & Executive Engineer in order to bring us at par with our juniors, release all arrears of pay along with interest, as we are facing a lot of mental harassment and financial hardship due to working on below status post for the last 20 years. 2. For judicious implementation of O/o No. 330/ HPG/GE-623 dated 15.09.2005, the availability of AMIE/BE share quota posts in erstwhile HSEB be calculated. Seniority in the cadre of A.E be finalized according to the availability of AMIE/BE share quota post in erstwhile HSEB. 3. Once we are given parity with our juniors i.e. Kashmir Singh and Rajiv Mishra as per Judgment of Hon'ble Punjab and Haryana High Court dated 29.07.1997 passed in CWP-6557 of 1993 and in LPAs No. 657 and 641 of 1997, only then the claim of Satvir Singh Yadav be taken up for consideration of parity with Rajender Singh Redhu & others. 4. To release annual increments withheld unprecedently w.e.f 01/2007 to 01/2010 as the relief has already been granted by-the Hon'ble High Court vide Order dated 09.01.2014 by protecting the rights of parties of O/o No. 330/ HPG/GE-623 dated 15.09.2005, along with interest as applicable as we have been performing the duties on the post of regular AE. 5. No further promotion of Executive Engineer to any officer of HPGCL, having implication with recasting of seniority based on the decision of CWP-16330 of 2005 be considered till the finalization of seniority of litigants is made in order to avoid legal complications and financial loss to Power Utilities. 6. The engineering officers of HPGCL/ HVPNL/ UHBVNL/ DHBVNL appointed/promoted after 1991 as Assistant Engineer may not be associated with the Committee proceedings having implication with recasting of seniority based on the decision of CWP-16330 of 2005.
	<p>Crux of the above mentioned pleadings:-</p> <p>He was selected as JE w.r.t. Advertisement No.CRA-104 in the year 1989. He attained AMIE on dated 20.04.1988. This writ petition has been filed by the petitioner with the prayer directing the respondents to consider his claim for promotion as Assistant Engineer from the date his juniors have been promoted.</p> <p>The perusal of record reveals that he acquired AMIE on dated 20.04.1988 i.e prior to his joining as JE in Erstwhile HSEB on dated 25.09.1989.</p> <p>Thus, his case is to be considered in the light of directions contained in Judgement dated 17.12.2004 of Letters Patent Appeals No. 657 of 1997 and 641 of 1997.</p>



R.K. Chandan
Member
Secretary



Rajesh Khandelwal
Member-cum-GM/Admn,
UHBVN


V.K. Jain
Member-cum-
GM/UHBVNL

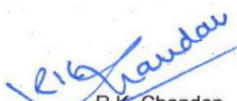

Sukam Singh
Member-cum-
SE/Admn.-I,
HVPNL



R.R. Goel
Member-cum-
CE/Admn,
DHBVNL



R.K. Bansal
Member-
CE/Admn.,
HPGCL



Poonam Bhasin
Chairperson-
cum-LR/HPUs.

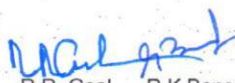
<p>Recommendations of the Committee:- The perusal of Joint ranking list of Engineering Subordinates directly recruited against CRA-104 in the year 1989 as per Para-20, sub-para-C) reveals that Shri Satyavir Singh Yadav is placed at Sr No-4 in joint ranking list i.e below Shri Subhash Chand Mittal and above Shri Atul Kumar Jain.</p> <p>For implementation of Judgement dated 17.12.2004 passed in LPAs no. 657 & 641 of 1997, respectively, 3 pronged action are required to be taken i.e. :- i. Merger of JE/Generation & JE/Field as it was a cadre of JEs. ii. Thereafter, placement in the ranking list. iii. Consideration of promotion as AE in terms of revised ranking list as per relevant regulations in vogue.</p> <p>All the above exercises have been carried out, as is evident from Para-20. This ensure the directions contained in Judgement dated 17.12.2004 passed in LPAs no. 657 & 641 of 1997, read with directions dated 09.01.2014 passed in CWP no. 16330 of 2005.</p> <p>After due consideration of factual and legal position in this regard, the committee is of the view that the contentions made by petitioner of CWP No. 1593 of 2008, Shri Satyavir Singh Yadav is feasible of acceptance and his case is to be considered in the light of direction contained in Judgement dated 17.12.2004 passed in LPAs no. 657 & 641 of 1997.</p>			
<p>O CWP No. & Title :- CWP No. 9175 of 2006 titled as Sh. Atul Kumar Jain V/s HPGCL & others. [Flag-18]</p>			
	Name of petitioners		Name of respondents
1	Atul Kumar Jain (D.O.B-01.01.1967)	1.	Rajender Singh Redhu
		2.	Nand Kishore
		3.	Satbir Singh
		4.	Tilak Raj
		5.	Sushil Kumar
		6.	Sanjay Sidana
		7.	Seema Khurana
		8.	Randhir Singh
		9.	Sanjeev Kumar Garg
		10.	Dharam Pal
		11.	Ravinder Singh
		12.	Chanda Singh
<p>Prayer of the Petitioner in CWP:-</p> <ol style="list-style-type: none"> To quash the orders dated 27/04/2006, vide which the claim of the petitioner for promotion to the post Assistant Engineer has been rejected. To consider the claim of the petitioner for promotion as Assistant Engineer from the date just junior to the petitioner was promoted and petitioner be granted all consequential benefits. 			
<p>Main thrust of the Utility to CWP:-</p> <ol style="list-style-type: none"> Sh. Rajinder Singh Redhu & others were promoted to the post of Asstt. Engg. vide order dated 15.09.2005 to comply with the orders dated 17.12.2004 passed by Hon'ble High Court in LPA no. 657 of 1997 and these orders were challenged by Sh. Parveen Arora & others vide CWP No. 16330 of 2005 and the implementation of the seniority dated 15/09/2005 qua the respondents was stayed vide orders dated 23.10.2006. The erstwhile HSEB advertised the posts of JE Trainee (Electrical, Mechanical and Electronics) vide advertisement dated 13.08.1988. It was clearly mentioned in the advertisement that on their selection as JE they can either be posted in any Thermal/ Generation project with in the jurisdiction of Board including BBMB/BCB or outside Haryana State or in the Field. It was further mentioned that an undertaking showing their/his willingness should be furnished by the 			



R.K. Chandan
Member
Secretary


Rajesh Khandelwal
Member-cum-GM/Admn,
UHBVN


V.K. Jain
Member-cum-
GM/UHBVNL


Sukam Singh
Member-cum-
SE/Admn.-I,
HVPNL



R.R. Goel
Member-cum-
CE/Admn,
DHBVNL

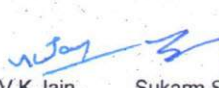

R.K. Bansal
Member-
CE/Admn.,
HPGCL

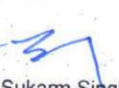

Poonam Bhasin
Chairperson-
cum-LR/HPUs.


<p>applicant along with the application form.</p> <p>3. On selection these persons were offered the post of JE in the Generation Cadre and Field Cadre as per requirement of the respondent Board which was never objected by them. The post of JE/ Field and JE/ Generation were not interchangeable and only the post of AEs are interchangeable. Further promotion to the post of JE/Field and JE/ Generation is made according to their respective seniority is made according to their respective seniority list of JE/Field and JE/Generation separately.</p> <p>4. The ranking list of engineering subordinates for promotion to the post of AE is prepared on the basis of the date of passing of AMIE/BE. The petitioner was not a party in Rajinder Singh Redhu's case and never represented for his promotion to the post of AE till the decision in LPA 657 of 1997.</p>
<p>It was therefore contended that petition may be dismissed.</p>
<p>Written submission of petitioners in Personal Hearing:-</p> <p>1. Some officers of the Haryana Power Utilities are contending before the committee that the period spent on training should not be counted as service for the purpose of promotion. They are relying on Supreme Court order dated 07.01.2013 rendered in Civil Appeal no. 100 of 2013. The order dated 07.01.2013, was for the grant of Assured Career Progression Scale (ACP Scales) and the respondents therein were the Apprentice Trainees. The facts and circumstances of the present case are different and as such the order dated 07.01.2013 should have no bearing in the present case. The Hon'ble Supreme Court in its order dated 07.01.2013 has observed that in terms of the departmental instructions, the period spent by the trainees of all categories on training was to be counted as experience in service for the purpose of promotion.</p> <p>2. In terms of instructions in vogue and implemented, the period spent on training was counted towards experience for promotion. In this regard, some implemented cases are detailed as under:-</p> <p>a. Secretary, HSEB, Panchkula counted the period spent on training by Sh. K.S. Pannu as experience in service for promotion and considered and promoted him as Assistant Engineer vide office order 259/EG-5/DH-AMIE dated 24.5.91 (Annexure-IV).</p> <p>b. The period spent on training by Sh. Kashmir Singh and Rajiv Mishra was also considered as experience in service for promotion and accordingly they were considered and promoted w.e.f. 18.12.1991 and 19.02.1992. The members of the committee may note that the applicant have also joined erstwhile HSEB as Junior Engineer along with Sh. Kashmir Singh and Rajiv Mishra and others against the same advertisement. c.) The period spent on training by Sh. Rajender Singh Redhu & others was also considered as experience in service for promotion by Chief Engineer /Administration, HPGCL Panchkula at the time of their promotion vide order dated 15.09.2005 (Annexure-V). The members of the committee may note that the applicant have also joined erstwhile HSEB as Junior Engineer along with Sh. Rajender Singh Redhu & others against the same advertisement.</p> <p>c. The Period spent on training was counted as service for experience for promotion at the time of preparation of ranking list of engineering subordinates possessing AMIE/BE qualification as it stood on 01.01.94 (Annexure-VI) for Generation Cadre. The period spent on training in respect of Sh. Ashok Kumar Miglani B.C (Sr.No 6), Balkishan Varma JE (Sr.No 35), V.M. Mahajan JE (Sr.No 36), which were recruited in 1985 as JE/Training, was counted as 5 years experience required for promotion.</p> <p>d. The period spent on training in respect of Sh. Ashok Kumar Parmar JE (Sr. No 3), Satya Pal Malik JE (Sr. No 4), Suresh Kumar Bansal JE (Sr. No 5), K.L Banga JE (Sr. No 11), Jai Parkash Dhillon JE (Sr. No 13), Ashok Kr. Bansal BC (Sr.No 15), D.P. Singh JE (Sr.No 16), which were recruited in 1986 as JE/Training, was counted as 5 years experience required for promotion.</p> <p>e. The period spent on training in respect of Sh. Anil Kumar Gupta JE (Sr. No. 23), Jashmer Singh JE (Sr. No. 24), Ramesh Gupta JE (Sr. No. 25), Vijay Kumar JE (Sr. No. 26), Rajesh Kumar Gulati JE (Sr. No. 27), Hari Singh JE (Sr. No. 28) etc, which were recruited in 1988 as JE/Training, was counted as 5</p>



R.K. Chandan
Member
Secretary



Rajesh Khandelwal
Member-cum-GM/Admn,
UHBVN


V.K. Jain
Member-cum-
GM/UHBVNL



Sukam Singh
Member-cum-
SE/Admn.-I,
HVPNL



R.R. Goel
Member-cum-
CE/Admn,
DHBVNL



R.K. Bansal
Member-
CE/Admn.,
HPGCL



Poonam Bhasin
Chairperson-
cum-LR/HPUs.


<p>years experience required for promotion.</p> <ol style="list-style-type: none"> f. The Period spent on training was again counted as service for experience for promotion at the time of preparation of ranking list of engineering subordinates possessing AMIE/BE qualification as it stood on 01.01.95 for Generation Cadre as well as the field cadre. 3. In terms of Regulation 9 of PSEB service of Engineers (Electrical) Recruitment Regulation -1965 amended vide Secretary, HSEB, Panchkula office order No. 21/Reg.-18 dated 19.2.1988 read with Notification No. 89 dated 13.02.1991 and Secretary, HSEB, Panchkula office memo no. Ch-96/REG-137 dated 27.03.1991 & office memo no. Ch-147/REG-137 dated 20.01.1992, I am senior to Sh. Rajinder Singh Redhu, Sh. Nand Kishore, Sh. Satbir Singh, Sh. Tilak Raj, Sh. Sushil Kumar Goel, Sh. Sanjay Sidhana, Smt. Seema Khurana, Sh. Randhir Singh, Sh. Sanjeev Kumar Garg, Sh. Dharm Pal, Sh. Ravinder Singh and Sh. Chanda Singh all promoted from deemed dates of 18.12.1991, 19.02.1992 and 11.10.1993 vide Chief Engineer/Admn., HPGCL, Panchkula office order no. 330/HPG/GE-623 dated, 15.09.2005. 4. The official respondent i.e. HPGCL in its written statement dated 13.11.2006 has also not disputed my ranking position w.r.t. the private respondents for consideration for promotion to the post of Assistant Engineer against 12.5% quota. 5. The department has taken a categorical stand before the High Court that my case for promotion to the post of Assistant Engineer from deemed dates with all consequential benefits could not be considered because of interim order of High Court dated 23.10.2006 vide which the seniority allowed to the private respondents vide order dated 15.09.2005 was stayed. 6. After the disposal of bunch matters with CWP 16330/2005 vide order dated 09.01.2014, the interim order of stay dated 23.10.2006 has also become redundant. 7. The department should consider my case for promotion to the post of Assistant Engineer from deemed date with all consequential benefits as was done in the case of my juniors. 8. In terms of policy in vogue, the ranking lists were prepared in the erstwhile HSEB and promotions were carried out on the basis of ranking position of engineering subordinates possessing AMIE/BE qualification against their fixed quota of 12.5%. These ranking lists were never disputed by the stake holders and the same cannot be disputed at this stage. 9. Some of the officers of erstwhile HSEB are trying to mislead the members of the committee with the ranking lists which were prepared after the amendment in recruitment regulation i.e. PSEB service of Engineers (Electrical) Recruitment Regulations 1965 vide order dated 12.10.1993 and 20.10.1993 10. The ranking lists, which were prepared and implemented on the basis of regulations of Electrical Engineering Cadre in the order of date of passing of AMIE/BE examination and they have never disputed the same. These regulations were further amended on 12.10.1993. These officers cannot, be allowed in Law to raise the settled issue at this belated stage. 11. High Court in its decision dated 29.07.1997 rendered in CWP 6557 of 1993 has directed the department to consider the case of engineering subordinates posted in Thermal Plants of erstwhile HSEB in the same manner as was done in the case of Sh. Kashmir Singh and Rajeev Kumar Mishra. The members may note that the ranking list was prepared in the order of their passing of AMIE/BE examination and these officers were considered and promoted in the order of their position in ranking list.
<p>Written submission of private Respondents in Personal Hearing:- The respondent Sh. Tilak Raj Dhingra, attended the personal hearing on behalf of all the respondents on dated 10.09.2014, but did not make any written submission before the Committee.</p>
<p>Crux of the above mentioned pleadings:- He was selected as JE w.r.t. Advertisement No.CRA-104 in the year 1989 along with Rajender Singh Redhu & others. He has prayed that some junior employees were promoted as AE without considering the claim of seniors who have acquired</p>


R.K. Chandan
Member
Secretary



Rajesh Khandelwal
Member-cum-GM/Admn,
UHBVN


V.K. Jain
Member-cum-
GM/UHBVNL


Sukam Singh
Member-cum-
SE/Admn.-I,
HVPNL


R.R. Goel
Member-cum-
CE/Admn,
DHBVNL

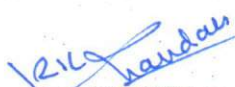

R.K. Bansal
Member-
CE/Admn.,
HPGCL



Poonam Bhasin
Chairperson-
cum-LR/HPUs.


	<p>the qualification AMIE/BE much after his date of passing AMIE/BE. The perusal of record reveals that he acquired AMIE on dated 20.04.1988 i.e prior to his joining as JE in Erstwhile HSEB on dated 29.09.1989. Thus, his case is to be considered in the light of directions contained in Judgement dated 17.12.2004 of Letters Patent Appeals No. 657 of 1997 and 641 of 1997.</p>
	<p>Recommendations of the Committee:- After due consideration of factual and legal position in this regard, the committee is of the view that the contentions made by Shri Atul Kumar Jain is feasible of acceptance. A perusal of Joint ranking list of Engineering Subordinates directly recruited against CRA-104 in the year 1989 as per Para-20, sub-para-C) reveals that Shri Atul Kumar Jain is placed at Sr No-5 in joint ranking list i.e below Shri Satyabir Sing Yadav and above Shri V.P.Yadav. Thus he becomes eligible for promotion.</p>


22. The six number Legal Notices were received on behalf of the petitioners & respondents. These Legal Notices are proposed to be dealt with separately as petitioners and respondents have taken certain deviations from their stand in petitions/reply. After due consideration of actual quota position/detail viz-a-viz availability of posts, the recommendation of the Committee on each Legal Notice is given hereunder:-


Sr No	Legal Notice
1 [Flag-62]	<p>From – Advocate Ashwani Kumar on behalf of Parveen Arora & Others relating to CWP 16330 of 2005 Dated-24.06.2014</p> <p>A bunch of 11 CWPs with lead case being CWP no. 16330 of 2005 (filed through me as counsel for the petitioner-Direct recruits) have been decided by a Division Bench of the Punjab & Haryana High Court vide orders dated 09.01.2014. The High Court in its orders has noticed the directions passed by the Court on 09.05.2012 and the decision of the Chairman, Haryana Power Utility as well as all the four Managing Directors (present noticees No. 1 to 5) and has held that in the proposal made, a solution has been offered and counsel for the petitioners are satisfied with the proposal. The High Court, while disposing of the petition in view of above facts, has ordered as follows:-</p> <p>"The authorities are directed to act in terms of the decision taken on 15.05.2012 which was placed on record of this Court on 17.05.2012. In terms of that decision, let fresh exercise be done to settle rights of the parties....."</p> <p>2. That in pursuance to the above said orders dated 09.01.2014 of the High Court, the notices No. 1 to 5 have constituted a Committee which comprises of Notices No. 6 to 11 who have been assigned the task of re-fixing the seniority.</p> <p>3. That the notice is being issued on behalf of the petitioners(Direct recruits) of CWP No. 16330 of 2005, right in the midst of the decision making process so as to ensure that the orders of the High Court are complied with in its true spirit and the same are not scuttled or deviated on account of undue pressures/vested interests/extraneous considerations because it has been noticed in the decision dated 15.05.2012 of the notices No. 1 to 5 itself that re-fixation of seniority may entail reversion of promotions carried out in excess of quota or non availability of quota and consequently re-fixation of pay.</p> <p>In the decision dated 15.05.2012, it was also pointed out that the quota posts of promotees be calculated as per availability of quota in terms of policy in vogue and they may be reassigned seniority from the date their quota posts, is available. The above will settle grouse of direct recruits who were otherwise appointed in the year 1993 i.e. much after the date of promotions/deemed dates given in 1991 to Rajinder Singh Redu and others. Even otherwise, as per the settled law, a direct recruit will get seniority from the date HE is borne</p>



R.K. Chandan
Member
Secretary



Rajesh Khandelwal
Member-cum-GM/Admn,
UHBVN


V.K. Jain
Member-cum-
GM/UHBVNL


Sukarm Singh
Member-cum-
SE/Admn.-I,
HVPNL


R.R. Goel
Member-cum-
CE/Admn,
DHBVNL


R.K. Bansal
Member-
CE/Admn.,
HPGCL


Poonam Bhasin
Chairperson-
cum-LR/HPUs.

on the cadre while A PROMOTEE will get seniority from the date, quota post is available.

4. That it is the case of my clients that the High Court, on the basis of the decision taken on 15.05.2012 by the notices No. 1 to 5 have settled the methodology to be adopted while re-fixation of the seniority. In this regard, the following is worth mentioning:-

(i) In the erstwhile HSEB, the seniority list of Assistant Engineers was circulated up to 31.12.1983. Thereafter, there have been a number of promotions with retrospective effect. Thus, logically the starting point for fixation of quota of direct recruits (65%) and promotees (35%) should be w.e.f. 01.01.1984 whereas as per the information made available to my clients, the starting point has been taken as 01.01.1988 which is totally wrong and should be re-worked.

(ii) The quota for direct recruits have all through been 65%. However, the inter-se quota of the various categories of promotees has been changed from time to time as follows:-

(a) AMIEs which was initially 7% and was increased to 12.5% w.e.f. 19.02.1988;

(b) Drawing staff which was initially 4% but was deleted w.e.f. 19.02.1988;

(c) Non diploma holders which was initially 10% but was deleted w.e.f. 19.02.1988;

(d) Diploma Holders which was initially 14% but was raised to 22.5% w.e.f. 19.02.1988;

(iii) The Committee comprising of notices No. 6 to 11 is not working out the quota of AMIE (12.5%) and Diploma Holders (22.5%) separately but strangely and for the reasons best known only to the members of the Committee, has decided to work out a joint quota of promotees comprising of 35%. Such an action, if taken, will be totally contrary to the decision of the High Court:-

(a) Judgment dated 09.01.2014 in CWP No. 16330 of 2005 wherein it has clearly been mentioned that quota posts of promotees be calculated as per the availability of quota in terms of Policy in vogue.

(b) Judgment dated 17.12.2004 in LPA No. 657 of 1997 titled HSEB Vs Rajinder Singh Redu and the judgment dated 29.07.1997 titled Rajinder Singh Redu Vs HSEB;

(c) Judgment dated 25.03.2014 in CWP No. 10168 of 2006, titled Raj Kumar Vs HPGCL;

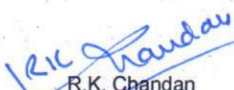
(d) Judgment dated 20.03.2014 in CWP No. 798 of 2007, titled Om Parkash Kharb Vs State of Haryana wherein it has been reiterated that the case is to be decided in terms of judgment dated 09.01.2014 in CWP No. 16330 of 2005 as well as LPA No. 657 of 1997 decided on 17.12.2004.


(iv) That the Committee of notices No. 6 to 11 has, surpassing all the canons of justice and reasonability decided to count the non diploma holders and drawing establishment promotees which formed a part of the quota of 35% qua promotees to be in the stream of direct recruits after their quota was deleted w.e.f. 19.02.1988.

There is absolutely no justification or reasons given for such a glaring departure from the norms which goes to the root of the entire controversy/exercise. Obviously, this is being done to appease the promotees qua which even the notices No. 1 to 5 in their decision dated 15.05.2012 had mentioned that reversions shall have to be carried out in respect of persons promoted beyond their quota.

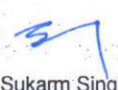
(v) It further transpires that in the year 1989 a number of AMIEs Engineering Subordinates working in the HSEB were recruited as GTAs and have been assigned in the quota of direct recruits whereas their rightful place is in the quota of promotees.

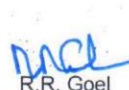
(vi) It is further pointed out that a CM No. 8963 of 2010 was filed in CWP No. 16330 of 2005 itself on 09.07.2010 on behalf of the Nigams wherein as per Annexure A-2, the position as on 11.01.1991 to 31.12.1991 and onwards year-wise was placed on record of the Court. A copy of the said Annexures A-2 and A-4 are appended herewith as Annexures-I & II respectively and since this affidavit was filed in CWP No. 16330 of 2005 itself, it is presumed to be the


R.K. Chandan
Member
Secretary



Rajesh Khandelwal
Member-cum-GM/Admn,
UHBVN


V.K. Jain
Member-cum-
GM/UHBVNL


Sukam Singh
Member-cum-
SE/Admn.-I,
HVPNL


R.R. Goel
Member-cum-
CE/Admn,
DHBVNL


R.K. Bansal
Member-
CE/Admn.,
HPGCL


Poonam Bhasin
Chairperson-
cum-LR/HPUs.

most authentic document and from which the Nigams cannot wriggle out. Thus, this should form the criteria for working the quota posts and on the basis of this quota, the inter-se seniority of the promotees i.e. AMIEs to the extent of 12.5% and Diploma holders to the extent of 22.5% should be fixed and filled up. The above exercise shall be totally in consonance with the orders of the High Court.

(vii) The inter-se seniority between the cadre of promotees i.e. 12.5% for AMIE and 22.5% for Diploma Holders has also to be meticulously fixed and EACH PERSON is required to be assigned slot at the respective place. In so far as the AMIEs are concerned, instructions clearly provide that the ranking list is to be fixed on the 1st January of each year and this should be also followed in letter and spirit. The slots for EACH PERSON in the AMIE category (12.5%) should be decided by following due laid down procedure in rules and regulations and on the basis of Ranking list, Seniority in lower post and fulfillment of eligibility conditions.

5. That although the orders of the High Court as well as decision dated 15.05.2012 of the notices No. 1 to 5 is absolutely clear but as already stated, the notices No. 6 to 11, for reasons best known to them and which can only be explained by them, are trying to change the above settled principles and are trying to fit in persons which in fact do not deserve to be placed at the places being assigned to them by the constituted Committee of notices No. 6 to 11. The present notice is being given midway through the process so as to streamline the procedure and ensure that any unscrupulous methods are not adopted while carrying out the exercise.

6. That committee should prepare and re-assign seniorities in terms of policy in vogue and certify the following in the report:-

a. That the slots are given to each of the Engg. Subordinates (whether Diploma Holders or AMIE holders) by name and are based on ranking / seniority lists prepared as per regulations, fulfillment of eligibility conditions, availability of quota post and accordingly the due position in the promotional slot is assigned to each person. This exercise should be done for each person i.e. Engg. Subordinates (whether Diploma Holders or AMIE holders).

b. That no person senior to any respondents/petitioners from the feeder cadre (i.e. at lower post) has been left out in the process, who may claim any kind of deemed date of promotion in the rank of AE onwards, which may further invite litigations due to out of share quota promotions/ deemed date promotions.

c. That no engineering subordinate in the ranking list combined (Generation/ Field Cadre) has been left out who is senior to the any respondents/petitioners from the feeder cadre (i.e. at lower post) when assigning slot to each of such person as per seniority.


d. That every person working as AE (as on date of preparation of data by the committee), creating vacancy on that date and /or any deemed date granted to the person since 1984 to till date (at the post of AE & AEE), has been taken into account for preparation of seniority lists and assigning seniority & quota slot.


e. That all the matters contained in the all the similar connected cases along with CWP 16330 of 2005 have been judiciously taken care while doing the exercise by the committee.

7. It is further a matter of record that the Hon'ble High Court has not given any approval to the deemed date of seniority assigned to any of the Engineering Subordinates. Therefore, no such deemed date under litigation may be considered and the seniority be re-fixed strictly as per the eligibility of each Engineering Subordinate.


8. That the various affected persons be also afforded an opportunity of hearing which is again in consonance with the principles of natural justice/audi-artem-partem. Still further, the proceedings of the Committee should be put in public domain so as to have complete transparency to all the stakeholders / affected persons while conducting the exercise.


Through this notice, the facts have been brought to the knowledge of the authorities and it may be ensured that the entire exercise is carried out in accordance with law, otherwise, my clients may be forced to knock the doors of


R.K. Chandan
Member
Secretary



Rajesh Khandelwal
Member-cum-GM/Admn,
UHBVN


V.K. Jain
Member-cum-
GM/UHBVNL


Sukam Singh
Member-cum-
SE/Admn.-I,
HVPNL


R.R. Goel
Member-cum-
CE/Admn,
DHBVNL


R.K. Bansal
Member-
CE/Admn.,
HPGCL


Poonam Bhasin
Chairperson-
cum-LR/HPUs.

the Court for committing contempt of the orders of the Court and in case such an exercise has to be undertaken, the entire responsibility shall rest upon you the notices. A copy of the notice is retained in my office for my reference and record.

Recommendations of the Committee:-

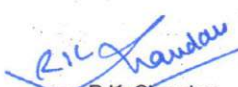
The contents of this legal notice hinge upon conjectures & surmises. The unfolding of events would reveal that unnecessary hue & cry has been raised by the petitioners while challenging the order dated 15.09.2005. The Petitioners have projected as if some castastrophe took place in 2005, but in fact nothing new has been done. Only exercise which is carried out now for setting right events which took place in the year 1989 i.e. much prior to the appointments of directly recruited batch of AEs in the year 1993. There was a complete quietus on the part of petitioners from 1993 to 2005. Therefore, agitation of claim which was not perused for after almost 12 years of time is not permissible. They were not vigilant over their right and their content to remain dormant. All action are dully supported by well justified reasons as would transpire from spade work done on 06.06.2014. The Joint Sub-committee and Committee while calculating quota and eligibility have strictly taken into consideration applicable regulations and factual & legal aspect of every case as would emerge from the recommendations given in succeeding paras. Other action at this stage is beyond directives dated 09.01.2014 and against settled law that settled things can not be allowed to unsettle after a efflux of time.


2
[Flag-
63]


From – Advocate Ashwani Kumar on behalf of Shri R.P. Garg S/o Late Shri Hukam Chand Gupta, Assistant Executive Engineer (Retd.) relating to CWP 12395 of 1997 Dated-17.05.2014


I have been instructed by my client Shri R.P. Garg S/o Late Shri Hukam Chand Gupta, Assistant Executive Engineer (Retd.), resident of E-55, ARDEE City, 2nd Floor, Sector 52, Gurgaon, to serve you with the following notice.


1. That my client had preferred the above titled Civil Writ petition No.12395 of 1997 for issuance of directions to accept his representation and consider the case of my client, in the same manner in which that of private respondents No.3 and 4 i.e. Shri Jaswant Singh Chaudhary, XEN and Shri Narendra Singh, XEN, had been dealt with and after doing so, accord to my client, his rightful place in seniority, above that given to respondents No.3 and 4 and grant all consequential benefits to the petitioner i.e. increments, service benefit of promotion etc. along with difference of back wages and interest on the arrears at the prevalent market rate.
2. That during the course of arguments, it was the stand of the respondents as is evident from CM No.18345 of 2013 dated 18.12.2013 filed in the Court that the case of the petitioner is covered by the judgment dated 29.07.1997 passed in CWP No.6557 of 1993 titled as Rajinder Singh Redhu and others versus HSEB and others, which orders were upheld in LPA No.657 of 1997 titled HSEB versus Rajinder Singh Redhu decided on 17.12.2004 and reported in 2005(4) Services Law Reporter-410.
3. That the High Court, vide orders dated 24.04.2014, has disposed of the writ petition on the basis of submissions of the counsel for the Nigam that the case of the petitioner is covered by the judgment of Division Bench dated 09.01.2014 in CWP No.16330 of 2005 in the case titled Parveen Arora and others versus HPGCL and others. A copy of the orders dated 24.04.2014 of the High Court as downloaded from the website of the High Court is attached as Annexure A-1.
4. That although, in View of the orders Annexure A-1 of the High Court, the case of my client is to be decided by the Board but for ready reference, the following few facts are submitted for your consideration:-
 - i) My client (hereinafter called as Petitioner) joined the HSEB as a Cooling Tower Operator Vide appointment letter dated 23.06.1966 and was posted in the 15 MW Thermal Plant at Faridabad.
 - ii) Vide office orders No. 1032/NGE/G-933 dated 30.11.1978, it was decided by the HSEB that the category of Thermal Supervisor be given the rank and pay and their seniority is to be counted from the date of continuous officiation and

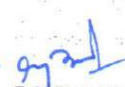

R.K. Chandan
Member
Secretary



Rajesh Khandelwal
Member-cum-GM/Admn,
UHBVN


V.K. Jain
Member-cum-
GM/UHEVNL


Sukam Singh
Member-cum-
SE/Admn.-I,
HVPNL


R.R. Goel
Member-cum-
CE/Admn,
DHBVNL


R.K. Bansal
Member-
CE/Admn.,
HPGCL


Poonam Bhasin
Chairperson-
cum-LR/HPUs.