

Recommendations of the Committee:-

The representee had earlier filed a CWP No. 7662/1998 in the Hon'ble High Court and as per directions of the Court the Board (erstwhile HSEB) considered and rejected the representation of Sh. Prabhu Dayal vide Office Order No.54/EG-5/AMIE/BE dated 29.01.1999. Further, the ibid orders were not challenged by him, thus had achieved finality qua him. He has not approached Hon'ble Court seeking challenge of these speaking orders. He had in fact acquiesced the placement in the Seniority List, thus, any displacement/ change in seniority at this stage is clearly impermissible.

After due consideration of factual and legal position in this regard, the committee is of the view that his case is to be decided by the administrative department of concerned Utility independently as the directions contained in Judgement dated 17.12.2004 passed in LPAs no. 657 & 641 of 1997, because facts & circumstance of his case are however different from Rajender Singh Redhu's case.

2 Representation of Shri Prem Kumar XEN/Fuel, HPGCL, Panchkula [Flag- 69]

Subject: Re-assignment of seniority and deemed date promotion as A.E.

Ref: 1. Judgment of Hon'ble Punjab & Haryana High Court dated 17.12.2004 passed in LPA No.657 of 1997 and 641 of 1997.
2. Judgment dated 09.01.2014 of CWP No.16330 of 2005.

Respected Sir,

In continuation to my representation dated 18.07.2014 addressed to Chief Engineer/Admn., HPGCL, Panchkula with copy to your goodself, I again want to submit as under:-

In compliance of the judgment of Hon'ble High Court of Punjab & Haryana dated 17.12.2004 passed in LPA No. 657 of 1997 and 641 of 1997, HPGCL vide O/o No. 330/HPG/GE-623 dated 15.09.2005 (photocopy enclosed) had given deemed date promotion to 16 No. JEs having qualification AMIE/BE. Deemed date promotion to 16 No. JEs (having AMIE) was given from 18.12.1991 and 19.02.1992. The base for giving deemed date seniority was that Sh. Naresh Kumar Makkad (Date of Joining is 14.12.1988 and date of passing AMIE is 06.10.1991), Sh. Kali Ram Gupta (Date of Joining is 24.01.1972 and date of passing B.E. is 07.12.1991), Rajiv Mishra & some others/ etc. were junior to them.

In the meantime, some petitions vide CWP No. 16330 of 2005, 9175 of 2006, 11909 of 2006, 12099 of 2006, 16883 of 2006, 16898 of 2006, 17721 of 2006, 5300 of 2007, 8431 of 2007, 13409 of 2007 and 1593 of 2008 were filed in Hon'ble High Court of Punjab and Haryana, at Chandigarh.


Hon'ble High Court have passed its judgment on 09.01.2014 regarding above mentioned civil writ petitions. Copy of the judgment is attached as Annexure-I. The conclusion of the said decision is reproduced as under:-


"In view of above facts, the above writ petitions are disposed of. The authorities are directed to act in terms of the decision taken on 15.5.2012 which was placed on record of this Court on 17.5.2012. In terms of that decision, let fresh exercise be done to settle right of the parties. When making that exercise, judgments, passed in favour of respondents No. 3 to 17 and similarly situated other persons be kept in mind. When making above said exercise, the decision taken on 15.9.2005 (Annexure P1) shall not affect rights of the parties. The exercise shall be done within five months from the date of receipt of a certified copy of this order. Liberty shall remain with the parties not satisfied with the order to be passed to approach the Court."


Before proceeding in the matter I want to submit my particular as under:

Name	: Prem Kumar
Date of Birth	: 10.06.1966
Date of Joining in HSEB as JE(Thermal/Trainee):	: 15.12.1987
Date of passing of AMIE	: 06.10.1991
Date of promotion as JE-1	: 01.01.1992
Date of Adhoc promotion as AE (BBMB)	: 15.07.1997
Date of regular promotion as AE	: 08.01.2003
Date of promotion as AEE	: 13.11.2006
Date of promotion as XEN	: 03.09.2010



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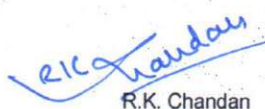
In this regard, some important facts are brought to your kind notice as under:-


1. That I was appointed as Junior Engineer by the erstwhile HSEB against Advertisement No. CRA 95 dated 20.12.86 for the post of JE/Field and my posting was made in Faridabad Thermal Power Station by Authorities of Board at its discretion. I joined at FTPS, Faridabad on 15.10.1987 as Trainee Junior Engineer and the training period was for one year. I passed AMIE(Electrical) on 06.10.91
2. That I was promoted as AE(Adhoc) and posted in BBMB w.e.f 15.07.1997.
3. On the basis of promotion policy circulated by HSEB in 10.1993 a ranking list was prepared by board on 01.01.1994 and Looking to my rank in the Ranking list of Engineering subordinates I was promoted to the post of Assistant Engineer (Regular) vide CE/Admn. Office order 6/CE Admn dt 08.01.03
4. In the LPA No. 657 of 1997 & 641 of 1998 , the Hon'able High Court vide its order has struck down the separate cadres of JE and AE's. In compliance to orders of Hon'able High Court the 16 numbers Apprentice JEs (Rajender Singh Redhu & Others) of 1989 batch working in HPGCL were given deemed date promotion over Sh. Kashmir Singh, Sh. Rajiv Mishra, Naresh Makkad & Kali Ram Gupta, etc. w.e.f. 18.12.91 and 19.02.92 vide C.E./Admn., HGPCL Panchkula Office Order No. 330/HPG/GE-623 dt. 15.09.05. A copy of above Office Order is enclosed as Annexure II for readyreference. However the deemed date promotion was subsequently stayed by Hon'ble High Court. I made several representation to the board for reassigning my seniority as AE since the JE promoted in the field which were also junior to me, but to no avail.
5. On the basis of judgment of Hon'ble High Court dated 17.12.2004, UHBVNL vide O/o 542/UH/HR-11/RBG-2636 dated 12.09.2006 (copy attached as Annexure-III) had also given deemed date promotion w.e.f. 11.10.1993 to Sh. Anil Kumar Gupta (HPGCL cadre now in UHBVNL). The date of joining of Sh. Anil Kumar Gupta is 07.01.1988 & date of passing AMIE is 06.10.1991 who is also junior to me.
6. Similarly, HVPNL vide O/o No. 213/EBG-2940 dated 15.09.2008 (copy attached as Annexure-IV) had also considered the matter and deemed date promotion w.e.f. 11.10.1993 was given to Sh. Rakesh Singla/FM-I (HPGCL cadre now in HVPNL) & Kuldeep Singh/FM-I(HPGCL cadre now in HVPNL). The date of joining of Sh. Rakesh Singla is 13.08.1988 & date of passing AMIE is 06.10.1991 and the date of joining of Sh. Kuldeep Singh is 15.04.1988 & date of passing AMIE is 11.03.1991. Both persons are junior to me.

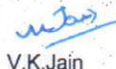
In this context it is submitted that HSEB had made notification vide dated 12.04.1991 wherein FM-I having three year diploma were considered as "Engineering Subordinate". Therefore the experience of two year of Sh. Rakesh Singla and Sh. Kuldeep Singh is to be reckoned from 12.04.1991 not from retrospective effect and accordingly they become eligible for the promotion of AE on or after 12.04.1993.

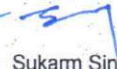
7. It is further brought to your kind notice that other Corporations have also reassigned the seniority of AEs from the deemed date e.g. UHBVN vide its office order no. 380/UH/HR-II/EBG-2636/L dt. 21.06.06 has regularized the period of 3 Nos. AE's namely Sh. Rajiv Anand, Sh. Jagdish Chander Sharma & Sh. Surinder Kumar Makkar. These deemed date promotion have been given to them w.e.f. 18.12.1991 on the basis of decision of Hon'able High Court being similar situated employee as explained above.
8. Sir, It is further mentioned that the 16 nos. Apprentice JEs (Sh. Rajender Singh Redhu & Others) were given deemed date promotion vide Office Order No. 330/HPG/GE-623 dt. 15.09.05). These were not even eligible for promotion to the post of AE as they had not completed two yrs required experience after completion of training period of one year as neither on 13.02.1991(Date of implementation of promotion policy for two year) nor on 01.01.1992.


In this regard, it is submitted that Sh. Rajender Singh Redhu & Others. were engaged as Apprentice Junior Engineer/Thermal with a training period of 1 year and they have joined in September, 1989. The training period was for one year and Haryana State Electricity Board(HSEB) vide office order no. 634/EOM/G-206/Vol-III dated 01.06.1990(Copy enclosed Annexure-V had


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curtailed their training period from one year to six months and they were appointed as JE/Generation in the scale of Rs 1640/2900 w.e.f 01.06.1990, however these Apprentice JEs were given monetary benefit of regular scale w.e.f 29.01.1990 with reference to secretary HSEB, Panchkua memo no. Ch-127/REG-137 dated 22.11.1991(copy attached as Annexure-VI) wherein it has been explicitly clarified, "that Board have already decided that the monetary benefit of regular pay scale is to be granted to the trainee(s) of all categories w.e.f. 29.01.1990 but benefit for the grant of annual increment under the provision as contained in letter dated 27.03.1991 is to be given to the trainee(s) of all categories whose services have either been regularized on 29.01.1990 or after 29.01.1990 only. In this way, the consequential benefit will accrue only from the date on which the regular pay scale has been granted to the trainees of all categories."

As stated above, the regular pay scale was granted to these 16 No. JE/Trainee & other batch makes w.e.f 01.06.1990, therefore consequential benefit i.e. increment, leave & service/ experience is to be accrued/considered w.e.f. 01.06.1990 but erstwhile HSEB had allowed them regular pay scale from 29.01.1990. In view of the fact these JEs/Trainee(s) of 1989 batch will be eligible for promotion to the post of AE on or after 01.06.1992(i.e. completion of 2 year service/experience) as per promotion policy notified vide memo No. Ch-64/Reg-18/L-II dated 13.02.1991.

A reference for consideration of regular satisfactory service from the date of granting of regular pay scale is hereby quoted as under:-

That Sh.Ashutosh Mahajan, JE was also appointed as apprentice Junior Engineer/ Thermal with a training period of one year along with above mentioned 16 no. JEs(Sh. Rajender Singh Radu & others).

That Sh.Ashutosh Mahajan, JE was granted 1st ACP scale (vide O/O. No. 1351/EOM/G/129 dated 18.08.2009 attached as Annexure-VII) after counting of ten years regular satisfactory service from the date of granting of regular pay scale i.e. w.e.f. 29.01.1990.

Therefore, it is submitted that double standard for counting regular satisfactory for degree holders and diploma holders cannot be opted for implementation and consideration of regular satisfactory service.

Further, It has been clearly defined in promotion policy notified vide office order no. 33/REG-18 dated 27.02.89 that:

- I. The ranking list of Engineering Subordinates, for their promotion as AE after having been qualified AMIE examination and completion of five years service it the cadre may normally be prepared on the first day of January of each year and duly notified to all concerned.
- II. The names of the eligible candidates in the ranking list, will be arranged in the order of their date of passing AMIE/BE examination. The names of JEs who qualify AMIE/BE examination during the subsequent year will be added in the ranking list below the names of the candidates who have passed the said examination in the earlier years.

It is further submitted that it is a settled position of law that the requisite experience of five/two years is to be counted from the date of regular appointment as engineering subordinate in the cadre and the training period if any spent by the incumbent prior to his regularization as JE is not be counted.


Further it is brought to your kind notice that, Hon'ble Supreme Court of India Judgment dated 07.01.2013 arising out of SLP (C) No. 29987 of 2010 titled Haryana Power Generation Corporation Limited & Others(Appellant) Vs. Harkesh Chand & Others(Respondents), passed in favour of HPGCL(Copy enclosed as Annexure-VIII), where Board's stand that period spent during training cannot be counted towards regular satisfactory service supported by secretary HSEB memo no. Ch-127/REG-137 dated 22.11.1991 was principally approved through the judgement.


A similar case was dealt in case of Sh. AK Hooda JE/F(DOB 01.10.1958) who had joined as JE/Trainee on 18.07.1986 and JE/Regular on 01.04.1987.


It is also placed on record that "As per ACP rules notified vide O/o no. 706/F dated 27.02.1998, the ACP scales are to be given from the date of regularization. Similarly, the seniority of an employee is also to be reckoned




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from the date of regularization.

Therefore, the service/experience of these sixteen JEs & others of 1989 batch is to be reckoned from 01.06.1990 and accordingly these will become eligible for promotion of AE on 01.06.1992 as per promotion policy circulated vide memo no. Ch-64/REG-18/L-II dated 13.02.1991 and accordingly their names will only appear in ranking list of JEs(having AMIE/BE with two years experience) to be prepared on 01.01.1993 and not prior to this date.

A list of these incumbents indicating date of joining, date of regularization, date of passing of AMIE/BE, and date of eligibility for promotion is enclosed as Annexure-IX for ready reference.

9. It is further brought to your kind notice that Sh. Sangam Patel has also given deemed date seniority w.e.f. 01.01.1993 vide HPGCL O/O No. 790/HPG/GE-623 dated 21.12.2012(copy enclosed as Annexure-X). The date of joining of Sh. Sangam Patel is 20.12.1990 and date of passing B.E. is 27.07.1989. As per the promotion policy notified in 1991, Sh. Sangam Patel becomes eligible to the promotion of AE on 20.12.1992. Sh. Sangam Patel is also quite junior to me.

Other incumbents namely Sh. N.K. Makkad, Kali Ram Gupta, Sube Singh, Sangam Patel, Sanwaria Girdhari Vatts, Anil Kumar Gupta, Rakesh Singla & some others are also junior to me.

I hereby also enclosed (Annexure-XI) list of JEs who are explicitly senior to above mentioned JEs.

It is submitted that I am senior to above mentioned officers and petitioners. And as per the promotion policy circulated in Feb./April/May, 1991, I was eligible for promotion to the post of AE on 06.10.1991(or as per ranking list to be prepared on 01.01.1992). Moreover, it is also submitted that I was promoted as JE-I on 01.01.1992, therefore, I become senior to all JEs having higher qualification (AMIE/ B.E.). It is worthwhile to mention that HPGCL vide Memo No. Ch-46/HPG/Genl-195 dated 30.03.2010 had revised seniority list of AEEs wherein 9 JEs-I (Sty. No. 258 to 266, Jugal Kishore Kaushik & others) have been placed in seniority above to JEs having AMIE/B.E.

It is submitted that in compliance of decision of Hon'ble High Court dated 09.01.2014, ranking list HSEB as a whole is to be prepared/got prepared for re-assignment of seniority of the officers (having qualification AMIE/B.E.) and who were eligible for the promotion of AE in 1991 & onwards as decided by Hon'ble High Court that "Let fresh exercise be done to settle right of the parties. When making that exercise, judgments, passed in favour of respondents and similarly situated other persons be kept in mind."

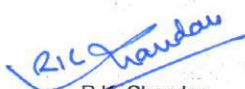
In view of the facts explained as above, it is requested to consider my name for re-assignment of seniority and deemed date promotion w.e.f. 18.12.1991 alongwith monetary benefits which was given to my junior persons explained in foregoing paras as I am senior to already persons given deemed date promotion or similarly situated with respondents like Sh. Rajender Singh Redhu & others as per the promotion policy notified by erstwhile HSEB in February, 1991.

Further, Dy. Secy./Estt.(G)-cum-Member Secretary, HPGCL, Panchkula vide Memo No. Ch-66/HPG/GE-218/L dated 16.07.2014 has issued "Personal Hearing Notice" to all concerned Petitioners & Respondents of all CWP's, I pray to your good self to provide an opportunity to me to appear before the committee for presenting my case of right of Seniority and deemed date promotion, please.

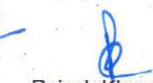
And it is also prayed that decision of Hon'ble High Court dated 09.01.2014 be got implemented in true spirit on the other hand left out senior persons will be forced to knock the door of Hon'ble Court for want of Justice and Power Utilities will have to bear unnecessary expenditures likely to be incurred for defending the court cases.

Recommendations of the Committee:-

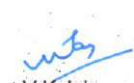
Recruitment in the cadre of JE was done in the year 1988 against advertisement No. CRA-95 wherein applications for 150 no. of posts of Trainee Junior Engineers (Field) were invited. The representee had joined as JE in erstwhile HSEB on 15.12.1987 against CRA No. 95 dated 20.12.1986. He was further promoted as AE on 08.01.2003 by HPGCL. As on today, he is praying for parity of AE with Rajinder Singh Redhu & Others.


R.K. Chandan

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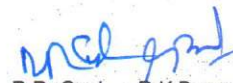
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The perusal of records reveals that the senior AMIE/BE holders as per revised ranking list could not be promoted as AE against 12.5% quota in the year 1991 to 1993, due to non availability of quota posts. Thus, his case for further promotion can only be considered by concerned Utility to which he is allocated after unbundling of Erstwhile HSEB in terms of ranking assigned.


After due consideration of factual and legal position in this regard, the committee is of the view that his case be considered by the concerned Utility based on his eligibility as per ranking list in terms of regulation in vogue. As such the contentions made by the representee is not feasible for acceptance as this case is distinct from the facts and circumstances and not covered by the Judgement dated 17.12.2004 passed in LPAs no. 657 & 641 of 1997.


- 3 Representation of Shri Jasmer Singh/XEN O/o CE/RGTPP, HPGCL [Flag- 70]**
Subject: Re-assignment of seniority as AE.
Reference: 1. Judgment of Hon'ble Punjab & Haryana High Court dated 17.12.2004 passed in LPA No.657 of 1997 and 641 of 1997.
 2. Judgment dated 09.01.2014 of CWP No.16330 of 2005.
- Respected Sir,
- In compliance of the judgment of Hon'ble High Court of Punjab & Haryana dated 17.12.2004 passed in LPA No. 657 of 1997 and 641 of 1998, HPGCL vide O/o No. 330/HPG/GE-623 dated 15.09.2005 had given deemed date promotion w.e.f. 18.12.1991 and 19.02.1992 to 16 No. JEs having qualification of AMIE/BE. The basis for giving deemed date seniority was the promotion of Sh. Naresh Kumar Makkad (Date of Joining is 14.12.1988 and date of passing AMIE is 06.10.1991) & Sh. Kali Ram Gupta (Date of Joining is 24.01.1972 and date of passing B.E. is 07.12.1991) etc. who were junior to them.
- Hon'ble High Court at Chandigarh have passed its judgment on 09.01.2014 regarding some other writ petitions i.e. CWP No. 16330 of 2005, 9175 of 2006, 11909 of 2006, 12099 of 2006, 16883 of 2006, 16898 of 2006, 17721 of 2006, 5300 of 2007, 8431 of 2007, 13409 of 2007 and 1593 of 2008 were pending in Hon'ble High Court of Punjab and Haryana, at Chandigarh. Hon'ble High Court have passed its judgment on 09.01.2014 regarding above mentioned civil writ petitions. The conclusion of the said decision is reproduced as under:-
- "In view of above facts, the above writ petitions are disposed of. The authorities are directed to act in terms of the decision taken on 15.5.2012 which was placed on record of this Court on 17.5.2012. In terms of that decision, let fresh exercise be done to settle right of the parties. When making that exercise, judgments, passed in favour of respondents No. 3 to 17 and similarly situated other persons be kept in mind. When making above said exercise, the decision taken on 15.9.2005 (Annexure P1) shall not affect rights of the parties. The exercise shall be done within five months from the date of receipt of a certified copy of this order. Liberty shall remain with the parties not satisfied with the order to be passed to approach the Court."
- In this regard, some important facts are brought to your kind notice as under:-
1. That I was appointed as Junior Engineer by the erstwhile HSEB against Advertisement No. CRA 95 dated 20.12.86 for the post of JE/Field and my posting was made in Panipat Thermal Power Station by the Board at its discretion. I joined there on 11.01.88 and I passed the Section A&B of AMIE(India) on 06.10.91.
 2. That looking to my rank in the seniority list of engineering subordinates I was promoted to the post of Assistant Engineer vide CE/Admn. Office order 6/CE Admn dt 08.01.03
 3. In the LPA No. 657 of 1997 & 641 of 1998, the Hon'able High Court vide its order has struck down the separate cadres of JE and AE's. In compliance to orders of Hon'able High Court the 16 numbers JE's of 1989 batch working in HPGCL were given deemed date promotion over Sh. Kashmir Singh Sh. Rajiv Mishra, Naresh Makkad etc. w.e.f. 18.12.91 and 19.02.92 vide C.E./Admn., HGPCL Panchkula Office Order No. 330/HPG/GE-623 dt. 15.09.05. A copy of above Office Order is enclosed as annexure 'A' for ready reference please. I made several representation to the board for



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reassigning my seniority as AE since the JE's promoted in the field were also junior to me, but to no avail.

4. It is further brought to your kind notice that other Corporations have also reassigned the seniority of AEs from the deemed date e.g. UHBVN vide its office order no. 380/UH/HR-II/EBG-2636/L dt. 21.06.06 has regularized the period of 3 Nos. AE's namely Sh. Rajiv Anand, Sh. Jagdish Chander Sharma & Sh. Surinder Kumar Makkar. These deemed date promotion have been given to them on the basis of decision of Hon'able High Court being similar situated employee as explained in para. 3 and have been put as per their date of passing of AMIE.
5. Sir It is further mentioned that the 16 nos. JE's promoted vide Office Order No. 330/HPG/GE-623 dt. 15.09.05. were not even eligible for promotion to the post of AE (as they had not completed two yrs required service after training period of one year) as on 1.01.91 when ranking list was prepared.

On the basis of judgment of Hon'ble High Court dated 17.12.2004, UHBVNL vide O/o 542/UH/HR-11/RBG-2636 dated 12.09.2006 had also given deemed date promotion w.e.f. 11.10.1993 to Sh. Anil Kumar Gupta (HPGCL cadre now in UHBVNL). The date of joining of Sh. Anil Kumar Gupta is 07.01.1988 & date of passing AMIE is 06.10.1991.

Similarly, HVPNL vide O/o No. 213/EBG-2940 dated 15.09.2008 had also considered the matter and deemed date promotion w.e.f. 11.10.1993 was given to Sh. Rakesh Singla (HPGCL cadre now in HVPNL). The date of joining of Sh. Rakesh Singla is 13.08.1988 & date of passing AMIE is 06.10.1991 who is junior to me.

It is further brought to your kind notice that Sh. Sangam Patel has also given deemed date seniority w.e.f. 01.01.1993 vide HPGCL O/o No. 790/HPG/GE-623 dated 21.12.2012. The date of joining of Sh. Sangam Patel is 20.12.1990 and date of passing B.E. is 27.07.1989. As per the promotion policy notified in 1991, Sh. Sangam Patel becomes eligible to the promotion of AE on 20.12.1992. Sh. Sangam Patel is also quite junior to me.

It is submitted that in compliance of decision of Hon'ble High Court dated 09.01.2014, seniority list HSEB as a whole is to be got prepared for re-assignment of seniority of the officers (having qualification AMIE/B.E.) and who were eligible for the promotion of AE in 1991 & onwards as decided by Hon'ble High Court that "Let fresh exercise be done to settle right of the parties. When making that exercise, judgments, passed in favour of respondents and similarly situated other persons be kept in mind."


In view of the facts explained as above, it is requested to consider my name for re-assignment of seniority and deemed date promotion which was given to my junior persons explained in above paras being senior to already promoted persons.


Further, Dy. Secy./Estt.(G)-cum-Member Secretary, HPGCL, Panchkula vide Memo No. Ch-66/HPG/GE-218/L dated 16.07.2014 has issued "Personal Hearing Notice" to all concerned Petitioners & Respondents of all CWPs mentioned in Para 2, it is also my humble request to provide an opportunity to me to appear before the committee for presenting my case of right for Seniority and deemed date promotion, please.


Recommendations of the Committee:-

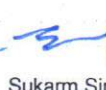
Recruitment in the cadre of JE was done in the year 1988 against advertisement No. CRA-95 wherein applications for 150 no. of posts of Trainee Junior Engineers (Field) were invited. The representee had joined as JE in erstwhile HSEB on 11.01.1988 pursuant to CRA No. 95 dated 20.12.1986. He was further promoted as AE on 08.01.2003 by HPGCL. As on today, he is praying for parity of AE with Rajinder Singh Redhu & Ors.

The perusal of records reveals that the senior AMIE/BE holders as per revised ranking list could not be promoted as AE against 12.5% quota in the year 1991 to 1993, due to non availability of quota posts. Thus, his case for further promotion can only be considered by concerned Utility to which he is allocated after unbundling of Erstwhile HSEB in terms of ranking assigned.


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V.K. Jain
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Chairperson-
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After due consideration of factual and legal position in this regard, the committee is of the view that his case be considered by the concerned Utility based on his eligibility as per ranking list in terms of regulations in vogue. As such, the contentions made by the representee is not feasible for acceptance as this case is distinct from the facts and circumstances and not covered by the Judgement dated 17.12.2004 passed in LPAs no. 657 & 641 of 1997.

4 Representation of Shri Rajeev Kumar Budhiraja, AE O/o SCE /XEN, Op., Gr. D-1 DCRTTP, HPGCL, Yamunanagar [Flag- 71]

Subject:- Representation regarding considering the name in the common seniority list while reassigning seniority to the batch of 1989 JE's being similar situated in light with judgment of Hon'able Punjab & Haryana High Court in CWP No 16330 of 2005: Rajeev Kumar Budhiraja, AE, DCRTTP, HPGCL, Yamuna Nagar.

R/Sir,

With due regards, I, Rajeev Kumar Budhiraja, AE, working at DCRTTP, HPGCL, Yamunanagar wish to lay following few lines for your kind information & sympathetic consideration please:-


1. That consequent upon my selection vide Adv. dt. 13/08/1988 for direct recruitment of JE's in erstwhile H.S.E.B, I joined as JE on 03/10/1989.
2. That further on my selection in Cabinet Secretariat, New Delhi, I resigned & relieved on 28/06/1990 from erstwhile H.S.E.B., but to complete my joining service conditions (Bond period), I joined back on 30/08/1991.
3. That I completed my higher qualification i.e. A.M.I.E. on 04/10/1989 and became eligible for promotion as AE on 04/12/1992, after completing two years of service as JE (Period: 03/10/1989 to 28/06/1990 & 30/08/1991 to 03/12/1992) as per existing promotion policy at that time, against 12.5% promotion quota posts meant for Engineering Subordinates possessing higher qualifications.
4. That my claim being similar situated employee for reassigning seniority within the batch and promotion as AE from the date other juniors were promoted is in Hon'able Punjab & Haryana High Court, Chandigarh.(CWP No:627 of 2007 titled Rajiv Kumar v/s HPGCL & others), which was filed in line with LPA No. 657 & 641 of 1997 titled as HSEB V/S Rajender Singh Redhu & others.
5. That I was promoted as AE on seniority basis in Oct, 2010 against 12.5% promotion quota posts meant for Engineering Subordinates possessing higher qualifications.
6. That I was reverted back to the post of JE to implement the interim orders passed by Hon'able Supreme Court of India in SLP (c) No.20211 of 2009 arising out of CWP No 13541 of 1995, & civil appeal No.571 of 2010 to promote the petitioner of said SLP provisionally, subject to final decision of civil appeal.
7. That again I am promoted as AE in Dec.2013 on availability of 12.5% promotion quota posts.

In view of the above, it is submitted that common seniority list is being prepared to reassign seniority to the batch of 1989 J.E.'s in light with Judgment passed by Hon'able Punjab & Haryana High Court on 09.01.2014 in CWP No. 16330 of 2005 (Parveen Arora & others v/s HPGCL & others). In that process it is requested that u/s being JE of 1989 batch, my claim may also be considered for reassigning seniority at appropriate place and I may kindly be allowed all benefits that are allowed to a similar situated employee of 1989 batch. I may be promoted as AE from the date other juniors have been promoted, against 12.5% promotion quota posts meant for Engineering Subordinates possessing higher qualifications.


It is relevant to mention here that orders dt. 09/01/2014 is of REM in nature which is applicable to all similar situated aggrieved employees. I am forwarding my genuine appeal prior to finalizing the common seniority list to avoid any kind of litigation at later stage.

It is further prayed that, I may please be given an opportunity for personal


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	<p>hearing to represent my position in the present case before finalizing the common seniority list in compliance to Hon'ble Punjab & Haryana High Court decision dt. 09/01/2014 in CWP No.16330 of 2005.</p>																				
	<p>Recommendations of the Committee:- The representee had joined as JE in erstwhile HSEB on 03.10.1998. Thereafter he resigned on 28.06.1990 and rejoined as JE on 30.08.1991. He has requested for the benefit of past service rendered by him prior to his resignation for the benefit of promotion.</p> <p>The committee is of the view that his case be considered by the concerned Utility as his case is distinct from the facts and circumstances of cases in hand and not covered by the Judgement dated 17.12.2004 passed in LPAs no. 657 & 641 of 1997.</p>																				
5	<p>Representation of Shri Balbir Singh, AEE O/o XEN/R&M, PTPS, Panipat. [Flag-72]</p> <p>Subject: Request for re-assignment of seniority in terms of judgement dated 09.01.2014 passed by Punjab & Haryana High Court, in CWP No. 16330 of 2005, Parveen Arora and Others- Petitioners Versus Haryana Power Generation Corporation Limited and Others- Respondents.</p> <p>It is most respectfully submitted that a judgement was pronounced on 09.01.2014 by Hon'ble Punjab & Haryana High Court in CWP No. 16330 of 2005. Court has offered a workable & legally sustainable solution to protect the rights and inter-se seniority of the petitioners and the respondents that "quota post of promotees be calculated as per availability of quota in terms of policy in vogue and their seniority may be re-assigned from the date their quota post is available." The above will settle grouse of direct recruits appointed- in 1993 i.e. much after deemed date of promotions given in 1991 to Rajinder Singh Redu & others. As per settled law, a direct recruit will get seniority from the date he is borne on the cadre while a promotee will get seniority from the date quota post is available. In terms of decision dated 09.01.2014 passed in favour of respondents No. 3 to 17 (Rajinder Singh Redu & others). Hon'ble Court has also directed to keep in mind the similarly situated other persons when making the exercise of re-assigning the seniority, In this regard, a few lines for your kind perusal and consideration are given as under:-</p> <ol style="list-style-type: none"> The respondents Sh. Rajinder Singh Redu & others had joined as JE/Training in Sept. 89 and they were re.....grant regular pay scale with all consequential benefits w.e.f. 29.01.1990 i.e. date of decision of Board. So their service as JE may be counted w.e.f. 29.01.1990. <p>The comparative service chronicles between myself and respondents (Rajinder Singh Redu & others) is detailed below:-</p> <table border="1"> <thead> <tr> <th>Sr. No.</th> <th>Detail of Events</th> <th>Balbir Singh (Applicant)</th> <th>Respondents no.3 to 17 Sh. Rajinder Singh Redu & others</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>Date of joining as JE</td> <td>18.05.1984</td> <td>They joined as JE/Trg in Sept. 89 but regular pay scale was granted w.e.f. 29.01.1990</td> </tr> <tr> <td>2</td> <td>Date of passing AMIE/BE</td> <td>06.10.1991</td> <td>11.03.1991</td> </tr> <tr> <td>3</td> <td>Date of eligibility in terms of 2 year's policy for promotion to the post of Asstt. Engg.</td> <td>06.10.1991</td> <td>28.01.1992 (29.01.1990 + 2 year's service as JE)</td> </tr> <tr> <td>4</td> <td>Date of promotion as AE</td> <td>18.04.2002</td> <td>1991 (with deemed date)</td> </tr> </tbody> </table> <p>It is evident from the above figures that I am very much senior than Sh. Rajender Singh Reddu & others.</p> <ol style="list-style-type: none"> It has also been learnt that in the light of decision of court, the seniority of promotees (AEs) is being re-assigned from such and such date their quota posts are available. So it is submitted that I was appointed as JE w.e.f. 1984 and i am also in the category of similar situated person being senior to the respondents and my right may also be protected as like Rajinder 	Sr. No.	Detail of Events	Balbir Singh (Applicant)	Respondents no.3 to 17 Sh. Rajinder Singh Redu & others	1	Date of joining as JE	18.05.1984	They joined as JE/Trg in Sept. 89 but regular pay scale was granted w.e.f. 29.01.1990	2	Date of passing AMIE/BE	06.10.1991	11.03.1991	3	Date of eligibility in terms of 2 year's policy for promotion to the post of Asstt. Engg.	06.10.1991	28.01.1992 (29.01.1990 + 2 year's service as JE)	4	Date of promotion as AE	18.04.2002	1991 (with deemed date)
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

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Singh Redu & others promoted as AE w.e.f. 1991 with deemed date re-assigning the seniority by way of policy in vogue.

On the foregoing, your goodself is earnestly requested to kindly take heed on the tabulated facts in view of natural justice. I shall feel highly obliged if your worthiness shall consider my right of re-assigning the seniority prior to respondents No. 3 to 17 (Rajinder Singh Redu & others to whom deemed date promotion was granted w.e.f. 1991).

Sympathetic & favourable consideration is again requested and oblige please.

Recommendations of the Committee:-

The representee had joined as JE in erstwhile HSEB on 18.05.1984. He was further promoted as AE on 18.04.2002 by HPGCL. As on today he is praying for parity of AE with Rajinder Singh Redhu & Ors.

Pendency of any case filed by him seeking above benefits has not been brought to the notice of this Committee by him.

In view of above, it is clear that he had acquiesced with placement in seniority and there after promotion as AE. He can be taken as a fence sitter who is now trying to reap rewards out of the directions contained in LPAs no. 657 & 641 of 1997. He was not vigilant over his rights therefore, any change in seniority consequently promotion at this stage is clearly impermissible.

Even otherwise his case for further promotion is to be considered against 12.5% quota. The perusal of records reveals that the senior AMIE/BE holders as per revised ranking list could not be promoted as AE against 12.5% quota in the year 1991 to 1993, due to non availability of quota posts. Thus, his case for further promotion can only be considered by concerned Utility to which he is allocated after unbundling of Erstwhile HSEB in terms of ranking assigned.

After due consideration of factual and legal position in this regard, the committee is of the view that his case be considered by the concerned Utility based on his eligibility as per ranking list in terms of regulation in vogue. His case may be dealt accordingly.

6 Representation of Shri Bhajan Lal, AAE-IRGTPS, Khedar, Hisar [Flag- 73]

Sub: Regarding framing of Common seniority of JE's in light of decision of CWP no. 10195 of 1993

Sir, With due respect it is brought to your kind notice that I am the petitioner of above stated CWP. I have come to know that framing of common seniority is under process. Following points are hereby requested for preparation of a rational common seniority list:

1. The common seniority relates to JE's of 1989 batch only.
2. The ratio 65:35 for direct & promotional quota may please be maintained at all level without prejudice to any party.
3. There are some FM-I in the list of 35% promotional quota in HPGCL which should not be inked/ included with common seniority of JE's as they were recruited for thermal cadre only and that time their promotional channel was separate.
4. Common seniority may please be prepared considering the date of decision as theoff date i.e. 09-01-2014.

It is therefore humbly requested that above points may please be considered sympathetically and in the light of decision of above stated CWP.

Recommendations of the Committee:-

The representee is co-petitioner in CWP No. 10195 of 1993. The petitioners appointed as Junior Engineers in the year September-1989 against advertisement No. CRA-104 and 254 no. Trainee Junior Engineers were recruited and were posted in Generation Cadre & Field Cadre. As such, merger of seniority list of Junior Engineers (Diploma Holder) from amongst Generation & Field Cadre has been made as per Para-20 sub-para-B) which is in terms of seniority of other batch-mates of directly recruited JEs during 1989 re-determined in pursuance to Judgement dated 17.12.2004 passed in LPAs no. 657 & 641 of 1997.



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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 subject to availability of quota and as per relevant regulations in vogue.

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, readwith directions dated 09.01.2014 passed in CWP no. 16330 of 2005.

After due consideration of factual and legal position in this regard, the committee is of the view that the contentions made by the petitioners of CWP No. 10195 of 1993 is feasible of acceptance to the extent of merger of JE/Generation & JE/Field by taking it to be a common cadre of JEs. In so far as their further promotion as JE-I/AE is concerned, that will be considered in terms of relevant regulation and seniority assigned to them in the concerned Utility.


7 Representation of Shri Raj Kumar, AE, HPGCL [Flag- 74]

Sub:- Implementation of Hon'ble Punjab & Haryana High Court Judgment dated. 09.01.2014 in CWP 16330 of 2005 titled "Parveen Arora & Others Vs HPGCL & others". Seniorities of all AEs directly recruited/promoted after 01.08.1984 stand scrapped. Any promotion on the basis of existing seniority lists may be contempt of court proceedings.


It is brought to your kind notice that Hon'ble Punjab & Haryana High Court through judgment dated. 9.1.2014 in CWP 16330 of 2005 titled "Parveen Arora & others Vs HPGCL & others" has scrapped all the existing seniority lists of direct recruited/promoted AEs of all the four companies carved out of erstwhile HSEB andHon'ble Chairman HPU to re-assign seniorities accepting the proposal given to Hon'able High Court on behalf of Chairman, HPU. As the seniorities were last revised up to 31.7.1984 complying the directions of Hon'able High Court and were circulated vide Secretary HSEB Panchkula Memo No. CH-297/EG-327/1992/Vol-II dated 10.12.1993; all the seniorities of AEs directly recruited/promoted are to be revised w.e.f. 1.8.1984 to till closer of second transfer scheme i.e. up to August 2001. As a fresh exercise of re-fixation of seniority, reversion/ promotion of approximately of 1000-1100 AEs recruited /promoted after 01.08.1984 is involved, a few facts are given below for your kind perusal and consideration that:-


1. The proposal, submitted in Hon'ble Punjab and Haryana High Court on behalf of Chairman, HPU and directions issued by Hon'ble Court accepting the Proposal supersedes all the previous instructions or precedence adopted in erstwhile HSEB and further adopted by all the companies of HPU regarding fixation of inter-se seniorities between Promotes and direct recruited. As per proposal promote is to be given seniority from the date of creation or quota post and the direct recruited is to be given seniority from the date of joining in the cadre. So all the direct recruited will have to be dragged down of promotion ladder for giving space for promotes to take over being in service from the date of creation of quota posts where as direct recruits join service years after creation of posts.
2. The latest guidelines for finalization of inter-se seniority of AEs and bases for preparation of ranking lists of engg. Subordinates for promotion as AE in 12 ½ % promotion quota meant for degree holder Engg. Subordinated were issued by Secretary HSEB, panchkula office Memo No. CH-90/327/1992.Vol-III dt. 17.2.1995 and any ranking list of Engineering Subordinates circulated before 17.02.1995 has no sanctity and fresh ranking lists are to be prepared on the bases of above guide lines for re-assigning seniorities. The combined promotion quota posts of all the AEs whether promoted in 22 ½ % quota meant for non-degree holder Engineering Subordinates or 12 ½ % promotion quota meant for degree holder Engg. Subordinates are to be recalculated on the basis of policies in voyage from time to time.



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