





3. No category other than mentioned as Engg. Subordinate in the PSEB, Service of Engineers (Electrical) Recruitment Regulation, 1965 adopted by HSEB and present in the definition of Engg. Subordinate at the time of issue of notification bifurcating the cadre of JEs in to two different Cadres of thermal and field i.e. on dated 19.02.1988 which was later quashed by Hon'ble Punjab and Haryana High court vide Judgment dated 29.07.1997 in CWP 6557 of 1993 and judgment dated 17.12.2014 in LPAs 641 and 657 of 1997, can be considered for promotion for the State Level post of AE till formation of different companies being not belonging to common cadre e.g. Post of Foremen Grade-I and Boiler Controllers exclusively belong to Generation so cannot be considered for promotion against the quota posts meant for common cadre categories .....JE and JE-I. **Moreover, Foremen Grade-I was included in the definition of Engineering Subordinates vide Secretary HSEB Office Memo No. Ch-144/Reg-18/L dated 12.04.1991 and with prospective effect as informed by Under Secretary, HVPNL vide Memo No. Ch-35/REG-239 dated 20.04.2009 so completes 2 years as Engg. Subordinates on 12.04.1993 and 5 years on 12.04.1996 and cannot be considered promotion before these dates in the ranking lists of Engg. Subordinates for promotion as AE as per policy in voyage.**
4. In the ranking lists of Engineering subordinates circulated vide Secretary, HSEB, Panchkula office Memo. No. 64/EG-5/ Bio-data dated 29.03.1996 and 144/ EG-5/ ranking list/ 1995 dated 09.04.1996, the names of all the Foreman Grade-I was mentioned from the date of their joining as FM-I instead of date of their inclusion in the definition of Engineering Subordinates i.e.12.04.1991 ignoring the fact that at the time of their selection as FM-I other categories like Operator grade-I and Foreman Grade-II were also recruited against same advt. ( Photocopy of Advt. attached) and non of these three category was covered in the Engg. Subordinate till 12.04.1991. As a fresh exercise of re-assignment of seniority is to be carried out at erstwhile HSEB level, it is the essence of exercise to correct all the mistakes which have been made previously. So the Foreman Grade cannot be considered as Engg. Subordinate before 12.04.1991.
5. The proposad exercise of re-assignment of seniorities, it seems that approx. 25 JEs allocated to HPGCL will be benefited and will get deemed date of promotion as AE before formation of HPGCL i.e. 14.08.1998 or the date of closure of second transfer scheme which ever will be the cutoff date for all the exercise and will make the appointment of 25 direct recruited AEs of 1999 batch or 2004 batch in excess of actual sanctioned strength of AEs in HPGCL at the time of bi-furcation. Thus their appointment as AE will also be in question as the basis of all this exercise is the claim of direct recruited AEs that the promotions have been made over and above available quota posts. As no discrimination can be made in treating direct recruited AEs/ promoted AEs, so a formula has to be devised to avoid their retrenchment from service as there is previous lien of fresh recruited AES.
6. As per proposal contained in the judgment dated 09.01.2014 the seniorities are to be re-fixed and as a consequence of re-fixation of seniorities, approximately reversion/promotion of 1100 AEs and the re-fixation of salary will take place. The service already rendered by the officers on different posts i.e. AE, AEE, Xen from the date of their promotion as per scrapped seniority lists cannot be ignored and will have to be treated as Adhoc service till the deemed date of regular promotion/seniority as per revised seniorities that will be granted to all the AEs of erstwhile HSEB appointed/ promoted after 01.08.1984.


Keeping in view the facts given above and the gravity of whole exercise, it is requested to please entrust the exercise to some in-service or retired people dealing with administrative matters to avoid further litigations.

  
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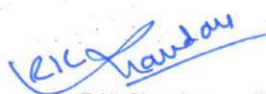
**Recommendations of the Committee:-**


No recommendation are being given as no relief has been sought by him vide the above representation.

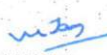
24. The above would settle the moot question regarding re-determination of rights of the parties in question. The Committee noticed that benefit of judgment passed in LPA 641 and 657 of 1997 was granted by different Companies suo motto without any directions in favour of such officials/officers from any Court. In view of above, it was requested to confirm whether any benefit in terms of Rajender singh Redhu's case has been given to any officials/officers and further any judgment on the patern of Rajender Singh Redhu's Case passed in favour of any Officials/Officers. It was informed by the Utilities that following Engineering subordinates were granted benefit on the basis of Judgments passed in favour of Rajender Singh Redhu and others in CWP 6557 of 1993 which were upheld in LPA 641 and 657 of 1997:-


Sr. No.	Name & Designation	Allocation on bifurcation of HSEB	D.O.B.	D.O.J. the Board	D.O.J. as Engineering Subordinate	Date of passing AMIE / BE	O/O of AE/Adhoc promotion	O/O of deemed date promotion of AE	Deemed date as AE w.e.f	Remarks
1.	Ram Mehar Singh JE/F	DHBVNL	15.10.58	18.09.89 /JE	18.09.89 /JE	16.08.89 / IME	Not Applicable	DHBVNL -O/O 144/SE/Admn dated 27.05.02	18.12.91	Now Xen
2.	Sube Singh	DHBVNL	14.06.57	16.11.79 /JDM	01.12.89 JE/F	22.08.91 BE	96 dated 03.03.92	DHBVNL O/O No. 206/ GM/ Admn. dated 24.6.11	11.10.93	Now Xen
3.	Anil Kumar Gupta JE	UHBVNL	02.04.65	07.01.88 / JE	07.01.88	06.10.91 / AMIE	12/1997	UHBVN O/O No. 542 dated 12.09.06	11.10.93	Now Xen
4.	Rajiv Anand	UHBVNL				20.04.88				
5.	J.C.Sharma	UHBVNL				07.04.89				
6.	S.K.Makkar	UHBVNL				25.03.90				
7.	Kuldeep Singh FM-1	HVPNL	05.04.64	15.04.88 / FM-1	15.04.88	11.03.91 / AMIE	09/1997	HVPN O/O No. 48 dated 20.03.06	11.10.93	Now Xen
8.	P.K. Jagga JE-1	HVPNL	15.01.55	27.05.80 / JE	27.05.80	22.08.91 / BE	1996	HVPN O/O No. 173 dated 29.07.08 / 05.08.08	11.10.93	Now Xen
9.	Rakesh Singla FM-1	HVPNL	13.02.66	13.08.88 / FM-1	13.08.88	06.10.91 / AMIE	1997	HVPN O/O No. 173 dated 29.07.08 / 05.08.08	11.10.93	Now Xen


25. This report has been compiled on the basis of spade work submitted by the Joint Sub-Committee and the documents supplied Petitioners / Respondents during the course of personal hearings. The directions dated 09.01.2014 passed by the Hon'ble High Court in all the CWPs, contentions raised in Personal Hearings granted to all the Petitioners/Respondents of all the CWPs, Legal Notices and 6 No representees in pursuance to orders of Principal Secretary, Power, Haryana Memo No Ch-16/ HPG/ GE/ Genl218/ PH/ C dated 01.09.2014, have been taken care of in compilation of this report.


  
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26. To sum up and settle the entire controversy as raked up in CWP No. 16330 of 2005, along with other connected petitions disposed off in terms of Common Order dated 09.01.2014, in addition to recommendations already appended with individual CWPs / Legal Notice/ Representation, the Committee further recommends as under:-

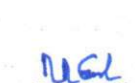
- a) No action in the case of batch of directly recruited Assistant Engineers who have filed the petitions is called for as the promotees have not occupied posts meant for direct quota. In fact, there are instances where the recruitments more than advertised posts have taken place. The Committee restrains from suggesting any action against them as the appointments of excess recruitees have remained unchallenged.
- b) 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/Seniority list.
  - iii Consideration of promotion as AE in terms of revised Ranking/Seniority list subject to availability of quota and their eligibility as per relevant regulations in vogue.
 All the above exercises have been carried out, as is evident from Para-20.
- c) The promotees/officials recruited prior to 1989 batch cannot seek benefit in terms of Judgement dated 17.12.2004 passed in LPAs no. 657 & 641 of 1997, read with Judgement dated 09.01.2014 passed in CWP no. 16330 of 2005 as their allocation as Junior Engineer in Generation Cadre & Field Cadre was done in compliance of decision of Hon'ble High Court in CWP No. 2953 of 1987 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 & Field Cadre was duly considered and the decision was circulated vide Memo No.Ch-81/NGE/G-105 dated 29.04.1988. Thus, they are estopped by their own conduct to challenge their allocation due to efflux of time. They cannot claim same treatment which was meted out to batch of 1989 recruited JEs, as they were not vigilant about their rights and had acquiesced with the situation.
- d) The Committee after going through the entire record has merged the Merit list as brought out in **Para-20 sub-para-b)** page No. 53 of this report of Junior Engineers of Electrical/Mechanical/Electronics appointed in the year September-1989 pursuant to advertisement No. CRA-104, based upon the marks obtained. They were posted as JE/Generation & JE/Field which was not in terms of Regulations as held by the Hon'ble High Court Order dated 17.12.2004 in LPA No. 657 & 641 of 1997. This list placed at **Flag-75** would now operate for further promotion as JE-I/AE, based upon their eligibility in terms of Recruitment & Promotion Policy of Engineering Subordinates as amended from time to time. It is not out of place to mention here that as per the Regulations, a person recruited as JE can be considered for promotion to the post of JE-I, further to the post of Assistant Engineer


  
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under 22.5% quota meant for them, whereas, an AMIE/BE holder can be promoted as AE against 12.5% quota meant for them.

The joint tentative ranking list of directly recruited Junior Engineers of CRA-104, who were appointed in the year 1989 under AMIE/BE quota and posted as JE/Generation & JE/Field, was worked out and placed at **Flag-76**.


The promotions carried out in the year 1991 till 14.08.1998 i.e unbundling of erstwhile HSEB requires a review keeping in view the changed positions. The Committee with the assistance of joint sub-committee has done the exercise and the revised position indicating replacement within the 1989 batch of directly recruited JEs is as brought at **Flag-77**.

The engineering subordinates who cannot be considered for their promotion to the post of Assistant Engineer due to non availability of Quota Post of AE till 14.08.1998, are required to be considered by the respective Utilities as they are further allocated to HVPNL, HPGCL, UHBVNL & DHBVNL on unbundling the erstwhile HSEB into HPGCL and HVPNL vide notification dated 14.08.1998 called "Haryana Electricity Reform (Transfer of Undertaking, Assets, Liabilities, Proceedings and Personnel) Scheme Rules 1998 and further vide notification dated 01.07.1999 two more companies namely UHBVNL and DHBVNL were carved out of HVPNL to give effect to transfer of distribution undertakings of HVPNL vide rules called "Haryana Electricity Reform (Transfer of Distribution Undertakings from Haryana Vidyut Prasaran Nigam Limited to distribution companies) Rules 1999. The revised position indicating left over engineering subordinates of 1989 batch of directly recruited JEs is also worked out and depicted at at **Flag-76**.

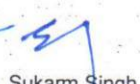
These may be notified on the website of all power Utilities, as the revised ranking may entail re-fixation of date of promotion resulting reversions. It is a settled principal of law that no administrative action can be taken against any employee or any order having civil consequences can be passed at the back of affected employees, therefore, inviting objections would satisfy the settled principal of law.

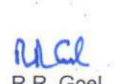
- e) As a consequence to the working out of the quota posts of promote under 12.5% quota meant for AMIE/BE, the promotion made in excess of the quota will have to be taken care of by way of adjustments against quota post which become available in the forthcoming years while the balance officials would be reverted.
- f) The 9 No. cases (except Shri Ram Mehar Singh DOB 15.10.1958 mentioned in Sr No 1) mentioned in **Para 25** of this report who have been granted benefit of deemed date of promotion on the basis of Judgement passed in favour of Rajinder Singh Redhu & Others in CWP No 6557 of 1993 are required to be considered afresh in light of regulation/notifications in vogue by the respective Utility as these cases, are distinct from the facts and circumstances of Judgement dated 17.12.2004 passed in LPAs no. 657 & 641 of 1997. The case of Shri Ram Mehar Singh DOB 15.10.1958 is required to be considered as per revised ranking list.
- g) Merger of Merit list of JE/Generation & JE/Field entailed revised

  
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ranking list which is as brought out at **Para-20, sub-para-C**. The resultant effect of reversion/promotion as AE/AEE etc. has been worked out at **Flag- 78**. The perusal of this data reveals that out of 18 officials whose seniority and promotion had undergone a change, 12 have retired, 6 nos. are still in service.

In so far as retirees are concerned, they have worked against the post of AE/AEE etc. and have drawn the pay accordingly. As per provisions contained in Memo no. Ch-59/NGE-153 dated 08.02.2008, containing Haryana Government Notification no. 3/8/04-2 Pension dated 30.11.2007 readwith Notification no. F. No. 6/2//2013-Estt/ (Pay-I) Ministry of Personnel Public Grievances & Pensions dated 10.12.2013 and Notification no. F. No. 18/26/2011-Estt/ (Pay-I) Ministry of Personnel Public Grievances & Pensions dated 06.02.2014 [**Flag-79**], the pension is fixed on the basis of last pay drawn. In view of statutory provision, there will be no impact on financial benefits drawn by them as pay/pension.


Now coming to the case of officials/officers who are still in service, their pay is required to be re-fixed by the concerned Utility to which they are allocated, on the basis of their revised positions in the revised ranking/seniority list in the event of change in date of promotion.


- h) During the personal hearings, Shri Rajender Singh Redhu and others who were granted deemed date of promotion vide order no 330/HPG/GE-627 dated 15.09.2005 represented for release of their withheld annual increments.


After due consideration of above factual and legal position in this regard, the committee is of the firm view that withheld annual increments be allowed to be released as they have been performing the duties on the post of AEs. These recommendations find support from directions contained in Judgement dated 17.12.2004 passed in LPAs no. 657 & 641 of 1997. However, their further promotion as AE will be governed by their position in the revised joint ranking list.


- i) Foreman Grade-I for their further promotion as Assistant Engineer under 12.5 % AMIE/BE quota meant for them is to be considered afresh in terms of regulation/ notification no. 98/REG18/L dated 12.04.1991. Their case is to be decided by the administrative department of concerned Utility independently of directions contained in Judgement dated 17.12.2004 passed in LPAs no. 657 & 641 of 1997, because facts & circumstance of their case & Rajender Singh Redhu's case are different.
- j) Speaking orders are required to be passed by the respective Utility qua the petitioners/ respondents/ representees in the light of recommendation as brought out in Para- 21, 22 & 23.
- k) During the course of personal hearings, a contention was made by Shri Shiv Prakash vide letter dated 15/18.09.2014 & Shri Rakesh Singla, XEN in HVPNL vide letter dated 15.09.2014, that training period of directly recruited JEs of 1989 batch should not be counted for the purpose of regularization.


In support of above contentions, reliance was placed upon the Memo No. Ch-96/REG-137 dated 27.03.1991, Memo No Ch-138/REG-137 dated 02.01.1992, Memo No Ch-147/REG-137 dated 20.01.1992,


  
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Memo No Ch-5/EOM/ET-1419 dated 14.09.1989 (Appointment of Junior Engineer/Thermal Tranees), & Judgement dated 07.01.2013 passed by Hon'ble Supreme Court in SLP No 100 of 2013 titled HPGCL & Others V/s Harkesh Chand & Others.

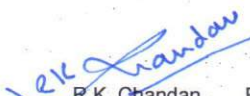
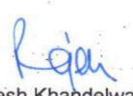

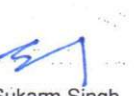
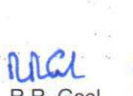
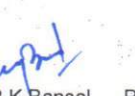

A perusal of CWPs, written statements filled which were disposed off along with CWP 16330 of 2005 or in terms of ibid CWPs reveals that the above averments were neither pleaded before the Hon'ble High Court in above cases nor in Rajender Singh Redhu's matter, therefore, no cognizance can be taken at this stage. It is however worthwhile to point here that Memo No. Ch-96/REG-137 dated 27.03.1991, Memo No Ch-138/REG-137 dated 02.01.1992, Memo No Ch-147/REG-137 dated 20.01.1992, Memo No Ch-5/EOM/ET-1419 dated 14.09.1989 were not quashed by the Hon'ble Supreme Court in Judgement dated 07.01.2013. Therefore, reliance on this Judgement for the purpose of non-counting of training period as regular service is misplaced, as such, the Judgment quoted by them is distinguishable of facts and circumstances of present case.

Further, it is also a matter of record that HSEB vide its clarification Memo No Ch-96/REG-137 dated 27.03.1991 [Flag-30] clarified that after considering the pros and cons of the case, it has been decided that the period spent by the trainee(s) of all categories on training shall be treated as duty for all intents and purposes i.e grant of increment in accordance with the provisions as contained in the policy, leave & seniority i.e from the date of joining in the cadre. The above mentioned circular has not been struck down, therefore, shall continue to be applicable for the period spent on Training.

- l) The joint Sub-Committee on dated 06.06.2014 submitted spade work relating to year wise quota position of AEs w.e.f. 01.01.1988 to 14.08.1998, as per sanctioned strength by taking into consideration officers who were given deemed date promotion in the particular year in which the deemed date promotion was granted. It is a matter of record that all the quotas of all categories i.e. 65% meant for direct recruitment, 22.5% meant for Diploma Holders & 12.5% meant for AMIE/BE, have exceeded from time to time. However, exceeding of direct quota posts does not hamper the rights of promotees, because the promotee quota posts do not get occupied by direct recruitees in the above preposition. Thus, it does not hamper rights of an official promoted as AE.

The officials who were initially promoted as AE/Adhoc (whose names are appearing at Sr no. 17 to 31 as respondents in CWP No. 6557 of 1993) against direct quota posts and subsequently regularized as AE from the year 1991 to 1993 on availability of quota posts are now required to be re-adjusted on the basis of revised ranking list subject to availability of quota posts.

Vide office order no. 330/HPG/GE-623 dated 15.09.2005, the only exercise which was carried out was replacement of respondents at Sr. no. 17 to 31 with Sr. no. 1 to 16 without any re-calculation/disturbance of quota. The next exercise which is required is placement of respondents appearing at sr no. 17 to 31 as per their position in revised ranking list subject to availability of quota posts, which has been worked out as per details depicted at [Flag-78]. It indicates that 10 no. officials whose names are appearing at sr no. 17 to 31 (except Sr No 24, 26, 27, 28 & 31) as perma respondents in LPAs no. 657 of

						
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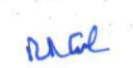


1997 and 7 nos. other officials were allowed promotion/ deemed date of promotion which is in excess of quota under AMIE/BE. They are to be re-considered in terms of their eligibility, availability of quota post and applicable regulations as notified vide O/o no. 167/REG-21/L-II dated 12.10.1993 & O/o no. 168/REG-21/L-II dated 20.10.1993.

After due consideration of above factual and legal position in this regard, the committee is of the firm view that this will settle the grouse of directly recruited AEs in the year 1993 and subsequent batches.

- m) There are certain cases where there is a definite verdict in favour of officers/officials in terms of Judgement dated 17.12.2004 passed in LPAs no. 657 & 641 of 1997. Therefore, no adverse action is being suggested by the committee as it would tantamount to violation of orders of the Hon'ble Court.
- n) Henceforth, after submission of this report grievances/objections arising as a consequence of fresh exercise done by the committee shall be settled by the respective Power Utility.

Before parting with this report, the committee would like to bring an important fact on record is that keeping in view the time constraints regarding implementation of directions dated 09.01.2014, the personal hearings were concluded on 29.09.2014. Therefore, all the requests received after 29.09.2014 seeking personal hearing have been filed. However, most of the contentions raised in the representations have been taken care of in this report.

Note:- This report contains 137 (one hundred thirty seven) number of noting pages & 1875 (one thousand eight hundred seventy five) number of pages which are annexed as annexures. No correction has been made by pen or ink. Each and every page of this report has been signed by all the Committee members on this day of 20<sup>th</sup> November, 2014 at Panchkula

						
R.K. Chandan Member Secretary, HPGCL	Rajesh Khandelwal Member-cum- GM/Admn, UHBN	V.K. Jain Member - cum-GM/ UHBN	Sukarm Singh Member-cum- SE/Admn.-I, HVPNL	R.R. Goel Member- cum- CE/Admn, DHBVNL	R.K. Bansal Member- cum- CE/Admn., HPGCL	Poonam Bhasin Legal Remembrancer- cum-Chairperson HPUs.