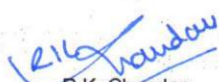




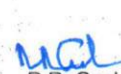
	<p>2. Private respondents no. 3 to 17 who were senior to their counterparts, filed a Writ petition No. 6557 of 1993 in the Hon'ble High Court against the earlier promotion of their junior counter parts. The Hon'ble High Court considering the facts as highlighted in the said petition by the respondents No. 3 to 17 found them senior in the cadre of JEs and allowed them to be considered for promotion as AE on the same pattern as was done in the case of junior persons by quashing the promotion orders shown as Annexure-P-4 to P-6.</p>
	<p><b>It was therefore contended that petition may be dismissed.</b></p>
	<p>Written submission of Petitioners in Personal Hearing:-</p> <ol style="list-style-type: none"> <li>1. The applicant is a direct recruit and joined the erstwhile HSEB on 28.2.1994 as Assistant Engineer. 16 engineers subordinates were granted deemed date of promotions as AE on various dates 1991 to 1993 and thus placing them senior to the applicant enblock in one go.</li> <li>2. The Hon'ble High Court in its order dated 23.10.2006 specifically held that 'it is well settled that the service rendered by promotees against the direct quota posts would not qualify for seniority as they would be deemed to be hanging outside service. Such promotees could reckon their service for the purpose of seniority, from the date the posts in their own quota became available they are adjusted against the same.</li> <li>3. Another point which emerges from the judgment dated 09.01. 2014, Annexure-P-7 &amp; P-8 is the finding that the services of the Junior Engineers is governed by the 1952 Rules and the perusal of the same would clearly indicate that the Junior Engineers constituted one cadre and thus there is no relevancy of generation cadre vis-à-vis field cadre in the rank of Junior Engineers and which considering the case of filling of slots of the promotees, the same are to be governed by single ranking list of the Diploma holders (22.5%) and Engineering Subordinates (12.5%) and no further categorization into field cadre or generation cadre is permissible.</li> <li>4. However, rather than implementing the complete Judgement, the Nigams, acting with undue haste and without giving any attention to the orders whereby promotions made on 18.12.1991, 13.01.1992 and 03.03.1992 were quashed and without even combining the field and generation cadre of JEs, the HPGCL passed orders dated 15.09.2005, giving deemed date of promotion as Assistant Engineers to another 16 Engineering Subordinates. This is despite the fact that there was no quota posts available and this factum had been specifically mentioned by the LPA Bench also.</li> <li>5. S/Sh. Surender Kumar Makkar, Rajiv Kumar Anand and Jagdish Chander Sharma were informed that there is no quota available however, in the year 2006, vide Annexure-A-3, all three were granted deemed date of promotion as AE w.e.f. 18.12.1991. This is despite the fact that in Annexure-A-2, the HSEB had also specifically mentioned that it has filed an affidavit in the Hon'ble Supreme Court in the case of HSEB Vs Siri Pal to the effect that promotion will not be made against the direct quota posts.</li> <li>6. The committee is required to finalize the inter-se-seniority of the Diploma Holders and Engineering Subordinates which as per Regulation is to be updated on 1<sup>st</sup> January of every year. The availability of quota is already frozen in terms of the affidavit in Annexure-A-1, filed before the High Court in CWP No. 16330 of 2005 and thereafter, the slots are to be filled by ensuring that at no points of time, any posts of any direct recruits in their 65% quota is usurped. This will meet the directions of the High Court as well as law laid down by the Hon'ble Supreme Court in numerous judgments and shall be in consonance with law of the land.</li> </ol>
	<p><b>Written submission of the private respondents in Personal Hearing:-</b>          We submit the following for kind consideration for the implementation of Hon'ble High Court order dated 09.01.14:-</p> <ol style="list-style-type: none"> <li>1. The petitioners of CWP No. 16330 of 2005 (Parveen Arora &amp; others vs HPGCL) and added petitioners of CWP No. 16330 of 2005 are direct recruits of 1993, 1998, 1999 and 2004 batch (65% quota) . As per law, a direct recruit of 1993 batch (65% quota) cannot claim the post of AE of 1991/1992 when he himself is borne in the cadre of AE in 1993 in Erstwhile HSEB. Further direct recruits of</li> </ol>

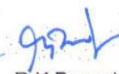
  
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1998, 1999 and 2004 batch (employees of HPGCL) cannot claim the posts of A.E of erstwhile HSEB of 1991/92 when they themselves are borne on the cadre of AE in HPGCL. Moreover, direct recruitees have no right to contest the seniority of promotees, if seniority assigned to promotee is against the quota post meant for the promotees.

2. Hence Hon'ble Court vide its order dated 29.07.1997 in CWP No. 6557 of 1993, set aside the promotion orders of junior respondents of CWP No. 6557 of 1993 (allocated in UHBVNL/DHBVNL/HVPL) and directed to consider the promotion of petitioners with all consequential benefits. Further Punjab & Haryana High Court vide its Judgment dated 17.12.2004 passed in LPAs No. 657 and 641 of 1997, upheld the order dated 29.07.1997. No SLP was filed by any corporation i.e HVPNL, HPGCL, UHBVNL, DHBVNL and private respondents of CWP No. 6557 of 1993 in the Supreme Court, thus the judgment of High Court attained its finality and were implemented by all the Haryana Power Utilities. The brief of the matter has been attached as Annexure-I.

3. Rajender Singh Redhu & Others were to replace the junior respondents of CWP No. 6557 of 1993 who were allocated to HVPNL/DHBVNL/UHBVNL after bifurcation of HSEB. In addition to that, Haryana Power Utilities (HVPNL/DHBVNL/UHBVNL) keep on giving deemed date seniority to our juniors AMIE/BE engineering subordinates (12.5% quota) to P.K. Jagga, Rakesh Singla, Sube Singh, S.C. Vats, Sangam Patel w.e.f. 11.10.93, 01.01.93 during the pendency of CWP No. 16330 of 2005 filed by direct recruits. Therefore, the contention of direct recruits that Rajender Singh Redhu & Others have occupied the posts meant for the direct recruitees (65% quota) is not justified. However, if promotees (12.5% quota) are excess in quota, that will be our juniors not us.

4. In compliance to Hon'ble Court order dated 09.01.14 and in terms of Regulation 9 b (i) & (ii) and 9 c (i) & (ii), share quota of 35% posts of AEs shall be calculated on the sanctioned strength of the posts of AEs during the period of 19.02.88 to 11.10.93. After 12.10.93, share quota posts of AE's shall be calculated on the vacancies which have arisen either by new creation, retirement, promotion etc.

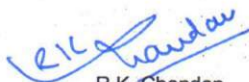
5. Promotions / regularization orders made in erstwhile HSEB, prior to 18.12.91 and after 12.10.93 are not under challenge before any court of law and hence not in dispute. Parity to seniors shall always be considered on the day of promotion of juniors. Thus dispute period of inter-se ranking is restricted to the date of promotion i.e. 18.12.91, 19.02.92, and 11.10.93. Revision of promotions without any dispute i.e. prior to 18.12.91 and after 11.10.93 is not legal.

6. In terms of regulations in vogue and implemented during 19.02.88 to 11.10.93, the eligibility for consideration for promotion from AMIE/BE against 12½ % quota, was determined from the date of qualifying such examination. Accordingly during the period of 19.02.88 to 11.10.93, all the promotions/regularizations were made on the basis of ranking position of AMIE/BE engineering subordinates in the ranking list, prepared in order of date of passing AMIE/BE exam. After amendments in regulation vide notification dated 12.10.1993, all the promotions were made on the basis of ranking position of AMIE/BE engineering subordinates in the ranking list, prepared in order of date of satisfying both the conditions i.e. passing the AMIE / BE examination and five years experience (as it stood on 01.01 1994).

7. Kashmir Singh, Rajiv Mishra etc. posted in Field (respondents of CWP No. 6557 of 1993) were promoted/regularized on 18.12.91, 19.02.92, 11.10.93 on the basis of their ranking position in the ranking list prepared in order of date of passing AMIE/BE exam. In the findings of Hon'ble High Court orders dated 29.07.1997 and 17.12.2004, Rajender Singh Redhu & Others were declared senior to the respondents of CWP No. 6557 of 1993 in order of eligibility criteria of date of passing the AMIE/BE exam.

8. As such, by taking to account the date of passing AMIE/BE of 16 petitioners viz viz Kashmir Singh, Rajiv Mishra and Chander Pal Singh (Respondents), the seniority of petitioners of 6557 of 1993 was also allowed above to Kashmir Singh, Rajiv Mishra and Chander Pal Singh vide Chief Engineer/Admn., HPGCL 0/o No. 330/ HPG/GE-623 dated 15.09.2005.

9. CWP No. 6557 of 1993 was of erstwhile HSEB. Clause 8 of notification dated 14/8/1998 and clause 6 of notification dated 1/7/1999 provide that all proceedings on the effective date can be enforced against the Transferee company (at present it



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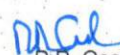
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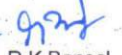
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is HVPNL, UHBVNL & DHBVNL) in the same manner as would have been enforced against HSEB if the transfer specified in the notified rules had not been made.

10. All CWPs of connected matters in CWP No. 16330 of 2005 has been filed after bifurcation and only relates to HPGCL.

11. It is worth to mention here that a group of engineering subordinates have represented for their vested interest that ranking lists of engineering sub-ordinates possessing AMIE/BE degree (12.5% quota) for the period of 19.02.88 to 11.10.93 should be modified retrospectively by modifying the policies in vogue in order to make themselves senior in the proposed joint ranking list. They claim that fresh joint ranking list may be prepared on the basis of eligibility criteria of date of satisfying both the conditions i.e. passing the AMIE / BE examination and two years' experience. They are also claiming that period spent as JE/Trainee should not be counted towards experience while making fresh joint ranking list.

12. Any attempt to draw analogy or application of the irrelevant orders or new interpretations of the provisions of PSEB service of Engineers (Electrical) recruitment regulation 1965 (as applicable to HSEB) amended vide Secretary/HSEB, Panchkula O/o No. 21/Reg-18 dated 19.02.1988 read with notification No. 89/Reg-31 dated 13.02.1991 implemented at the time of promotions / regularization of the juniors (respondents of CWP No. 6557 of 1993) would be highly misconceived and abuse of process of law.

13. Facts regarding eligibility criteria for preparing ranking lists, implemented for promotions during 19.02.88 to 11.10.93 and counting of training period as JE/Trainee towards experience has already been submitted in personal hearing in CWP No. 16883 of 2006 titled Sukhdev Singh & Others v/s HPGCL & others on 25.08.14. However, facts are again briefed as Annexure- II for your kind reference.

Keeping in view of all the above it is requested that:-

- Annual increments in respect of Rajender Singh Redhu & others withheld by HPGCL w.e.f 01/2007 to 01/2010 may be released without any further wait for the finalization of issue of seniority.
- For judiciously implementation of court orders dated 29.07.97, 17.12.04 and 09.01.14, Rajender Singh Redhu & Others may be allocated in UHBVNL/DHBVNL/HVPNL to replace their juniors, respondents of CWP No. 6557 of 1993 so that specific relief allowed by the Hon'ble Court to the specific persons i.e. petitioners of CWP No. 6557 of 1993 may be given without any further litigation.
- Seniority of Rajender Singh Redhu & others, who have already been promoted as AE at par with their junior w.e.f. 18.12.91, 19.02.92, 01.04.93, may be finalized at the earliest as the time period of five months directed by Hon'ble High Court has already been completed in June/2014.

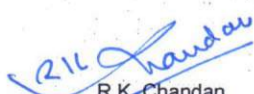
**Crux of above mentioned pleadings :-**


Their main grouse was that private respondents from No 3 to 17 have been made senior by assigning deemed date of promotion retrospectively and they have been made senior to them. As per their contentions they were selected as AE against CRA-126, CRA-155/156 advertised on 02.04.1993 & 22.04.1999, respectively. They had contended that the HPGCL vide Office Order No 330 dated 15.09.2005 has granted deemed date of promotion and seniority against direct quota post.


**Recommendations of the Committee:-**


Deemed dates as AEs were given to Rajender Singh Redhu & others in compliance to Judgement dated 17.12.2004 passed in their favour by Hon'ble High Court. It is a matter of record that deemed dates have been given to them by bringing them at par with their juniors as already noticed in Para 12 of this report. It is also a matter of record that respondents no. 17 to 31 who were given adhoc promotion as AE against direct quota posts in the year 1991, 1992 & 1993 were subsequently regularized against quota posts on availability against 12.5% quota posts of promotes as is evident from the following para 3 in the notes of O/o No 100/EG-5/AMIE/BE Vol-III dated 07/22.04.1994 and para 3 in the notes O/o No 343/EG-5/AMIE/BE/DH/REG dated 14.08.1998:-


*"Para-3 The regularization of adhoc promotion in respect of AMIE/BE and Diploma holders Engineering Subordinates (other than Generation Cadre) have been made from the dates on which the share quota posts became available."*


  
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"Para-3 The regularization of adhoc promotion in respect of AMIE/BE and Diploma holders Engineering Subordinates have been made from the dates on which the share quota posts became available."

This fact was not brought to the notice of Hon'ble High Court by the petitioners while filing CWP No 16330 of 2005, which tantamount to concealment of facts on their part. Thus, availability of quota post of the promotees is undisputed, as regularization were done against promotee quota posts and not direct quota posts. Moreover, the petitioners had joined against their direct quota posts later than the promotees who were adjusted against their available quota post. Thus, these promotees would remain senior to them as 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.


Five number petitioners namely Sunil Gagneja, Ravinder Sheokand, Pawan Bains, Deepak Malik & Kuldeep Dahiya) added vide CM No. 7015-16 of 2012 as a party in CWP No. 16330 of 2005. These petitioners were inducted as AE in HPGCL in the year 2004/2005 against 65% quota meant for direct recruitment. As per their contention placement of Rajender Singh Redhu & Others would have an impact on their further promotion. They had prayed for creation of Superannuary posts in order to mitigate of hardship of already promoted AEs. However, their contention for creation of superannuary posts is not feasible of acceptance as it is against the stand taken by Nigam which formed basis of disposal of CWP No 16330 of 2005.

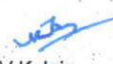
Thus, after due consideration of above factual and legal position in this regard, the committee is of the firm view that the contentions made by petitioners of CWP No 16330 of 2005 titled Parveen Arora & others are not feasible of acceptance as a direct recruit will get seniority from the date he is borne on the cadre while a promotee will get seniority from the date quota post is available.


**B CWP No. & Title :- CWP No. 8431 of 2007 titled as Sh. Narender Sharma & others V/s Haryana Power Generation Corporation Limited & others. [Flag-9]**


	Name of petitioners		Name of respondents
1.	Narendra Sharma 1993 Batch	1.	N.K. Khurana
2.	Raman Sobti 1993 Batch	2.	P.L. Saluja
3.	Pushkar Raj 1993 Batch	3.	Subhash Chand Mittal
4.	Ashok Kumar Maheshwari 1998 Batch	4.	Rajinder Singh Redhu
		5.	Nand Kishore
		6.	Satbir Singh
		7.	Tilak Raj
		8.	Sushil Kumar Goyal
		9.	Sanjay Sidana
		10.	Seema Khurana
		11.	Ravinder Singh
		12.	Chanda Singh
		13.	Randhir Singh
		14.	Sanjeev Kumar
		15.	Dharam Pal
		16.	Baljit Singh
		17.	Raj Pal Singh
		18.	Sube Singh
		19.	Ram Jaway Gupta
		20.	Jai Pal Singh


  
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		21.	Ram Niwas Rohila
		22.	A.P. Mehta
		23.	Chander Pal Singh
		24.	Virender Singh Kamboj
		25.	Parkash Chand Saini
		26.	Rajiv Misra
		27.	Manoj Kumar
		28.	Naresh Kumar Makkar
<p><b>Prayer of the Petitioner in CWP:-</b></p> <ol style="list-style-type: none"> <li>1. For quashing the orders dated 15.09.2005.</li> <li>2. No orders adverse to the interests of the petitioners can be passed on the basis of CWP no. 6557 of 1993 and LPA no. 641 and LPA no. 657 of 1997 as the petitioners were not arrayed as parties in those petitions.</li> <li>3. The seniority of the petitioners, who are direct recruits and joined the Nigam from 1993 onwards, cannot be altered to their disadvantages by assigning deemed date of promotion to the private respondents vide order dated 15.09.2005.</li> </ol> <p>Any promotion to the rank of Assistant Engineers made in excess of the quota of 12.5% of Engineering Sub-ordinates AMIE/BE degree holders are not sustainable in the eyes of law and the promotes who have been given the benefits of such promotion shall be entitled to grant of seniority etc only when the post in their quota are available.</p>			
<p><b>Main thrust of the Utility to CWP:-</b></p> <ol style="list-style-type: none"> <li>1. Private respondents no. 3 to 17 were promoted to the post of AE vide order dated 15.09.2005 from deemed date in compliance of the judgment of High Court in LPA 657 of 1997 and 641 of 1997. Respondent no 3 N.K. Khurana obtained Boiler Competency certificate and was promoted as AE vide order dated 08.01.2003 against the quota of Boiler Controller against 22-12% quota of JE-I? Boiler Controller and not against 12 1/2% quota.</li> <li>2. CWP 16330 of 2005 was filed by the direct recruits against reassigning of seniority and deemed date promotion to private respondents no, 3 to 17 vide order dated 15.09.2005 and High Court stayed the implementation of seniority list dated 15.09.2005 qua the respondents and records of LPA No. 657 and CWP 6557 of 1993 were tagged with CWP 16330 of 2005.</li> <li>3. In compliance of the orders passed in CWP 16330 of 2005 the private respondents no. 3 to 17 were not granted seniority in list of AE except Respondent No. 3 who was promoted as AE by virtue of his seniority in the seniority list of Boiler Controller in 22 1/2 % quota was promoted as AE on 13.11.2006.</li> <li>4. Erstwhile HSEB vide order dated 19.02.1988 created two separate cadre of JEs i.e. Generation Cadre and General Cadre. The private Respondents No. 3 to 17 were appointed by the Board in the year 1989 as direct JEs/ Trainee and after successful competition of training of one year their seniority as JEs was reckoned on the position assigned to them in the merit list for the purpose of all service matters including promotion to the post of AE on their passing AMIE/BE against 12 1/2% quota.</li> <li>5. Some of the JEs who were selected against the same advertisement and appointed in Field Cadre and junior to the private respondents were promoted as AE(adhoc) vide order dated</li> <li>6. Private respondents no. 3 to 17 filed CWP 6557 of 1993 which was allowed vide order date 29.07.1997. LPA No. 657 of 1997 filed by the erstwhile HSEB against the said judgment was also dismissed vide order dated 17.12.2004. The contention of the petitioners that there was no separate cadre of JEs and the seniority of JEs amongst various wings is wrong.</li> <li>7. Two cadres of JEs i.e. Generation Cadre and Field Cadre were formed by the erstwhile HSEB vide order dated 19.02.1988. The seniority of JEs working in Field Cadre and Generation cadre was prepared separately on the basis of their service in respective cadre. Some JEs working in Generation Cadre who were junior and ranked below the Private Respondents No. 3 to 17 got early</li> </ol>			

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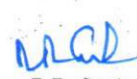
	<p>promotion as AE(Adhoc) in 1991-1992 on the basis of ranking list of Engineering Subordinates having AMIE/BE degree on the share quota of 12 ½% whereas private respondents no 3 to 17 who were in generation cadre, remained working as JE.</p> <p>8. Private respondents no. 3 to 17 were given deemed date promotion as AE in compliance of the order dated 17.12.2004 passed in LPA No. 641 and 657 of 1997. Private respondents no. 3 to 17 have not been assigned seniority in terms of interim order dated 23.10.2006 passed in CWP 16330 of 2005. After final adjudication of the writ petition, the seniority aspect of the private respondents viz-aviz the present petitioners will be considered under the criteria as may be prescribed by the Hon'ble Court.</p>
	<p><b>It was therefore contended that petition may be dismissed</b></p>
	<p><b>Written submission of the Petitioners in Personal Hearing:-</b></p> <ol style="list-style-type: none"> <li>1. Engineering subordinates should be promoted as per their ranking list prepared on 1<sup>st</sup> day January of every year after their eligibility as per their qualification/ experience obtained and strictly in their own quota in 22.5% and 12.5% separately. This will be the implementation of regulation regarding promotion policy in right spirit.</li> <li>2. The decision dated 15.05.2012 of Chairman Haryana Power Utilities should be implied in contents.</li> <li>3. The ranking list and seniority list of engineering subordinates should be made w.e.f. 01.01.1984 to 01.01.1993 because no ranking list and seniority list was prepared upto the year 1993 and time and again changes made in the policy during the year 1989 to 1993.</li> <li>4. Sincere and serious cognizance should be taken on so many promotions/ deemed date given to Engineering subordinates during 1991-93 resulting inter-se dispute among Engineering subordinates. Despite the non availability of quota and keeping in dark the essence of Affidavit in Supreme Court still deemed date are being given.</li> <li>5. Other court cases similar to CWP no.16330/2005 in all power utilities like Ram Mehar case in DHBVNL, Atul Pasricha V/s UHBVNL, R.N.Jain V/s HPGCL, O.P. Kherb V/s HPGCL etc and all the writs attached with CWP 16330/2005 in Punjab &amp; Haryana High Court should have been decided in line with the decision of Punjab &amp; Haryana High Court dated 09.01.2014. And it should be certified that:-       <ol style="list-style-type: none"> <li>(i) The slots are given to each of Engineering Subordinates (whether Diploma holders or AMIE holders) by name and are based on ranking/ seniority done lists prepared as per regulation, fulfilment or 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. Engineering Subordinates (whether Diploma holders or AMIE holders).</li> <li>(ii) No person senior to any respondent/ 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 promotion in the rank of AE onwards, which may further invite litigations due to out of share quota promotion/ deemed date promotions.</li> <li>(iii) No engineering subordinates in the ranking list combined (generation/ field cadre) has been left out who is senior to the any respondent/ petitioners from the feeder cadre (i.e. at lower post) when assigning slot to each of such person as per seniority.</li> <li>(iv) Every person working as AE (as on date of preparation of the 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 &amp; AEE), has been taken into account for preparation of seniority list and assigning seniority and quota slot.</li> <li>(v) The Hon'ble court has not given any concurrence to the deemed date of seniority assigned to any of the litigant (Engineering Subordinate). Therefore, no such deemed date under litigation may be considered as this tantamount to contempt of court.</li> <li>(vi) All the matters contained in the connected cases alongwith CWP 16330/2005 have been taken care while doing the exercise by the committee.</li> </ol> </li> </ol>


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

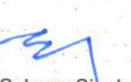
  
Poonam Bhasin  
Chairperson-  
cum-LR/HPUs.

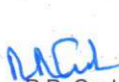
	<p>(vii) The exercise for the implementation of judgement dated 09.01.2014 should be made total transparent to all concerned and report be made available before implementing it.</p> <p>(viii) Any single engineering subordinate if adjusted against the share quota of direct recruit for the sake of mere adjustment to avoid reversion would call litigation.</p> <p>(ix) Before implementing the decision and exercise by the committee it would be assured that all the cases referred in the case or other similar cases being decided by the court in similar manner be decided by committee itself no further intrusions in 65% quota be allowed, it would be better &amp; in the interest of department to settle all the disputes once for all.</p>
	<p><b>Written submission of the private respondents in Personal Hearing:-</b></p> <p>We, the respondents of subject cited CWP No. 8431 of 2007, are thankful to the committee members of all Haryana Power Utilities for giving us an opportunity to submit the detailed facts in CWP No. 8431 of 2007, disposed off along with CWP No.16330 of 2005 on 09.01.2014. Hon'ble Punjab &amp; Haryana High Court has directed the authorities to act in terms of the decision taken on 15.05 2012 to settle the rights of the parties. While doing this the Judgments passed in favour of Rajender Singh Redhu &amp; others and similarly situated persons be kept in mind. While making above said exercise, the decision taken on 15.09.2005 shall not affect the rights of the parties. In view of fresh exercise proposed by the Punjab &amp; Haryana High Court to Haryana Power Utilities, re-calculation of AMIE/BE share quota posts for the period of erstwhile HSEB is to be done and re-assignment of seniority of petitioners &amp; respondents of CWP No. 6557 of 1993 and added respondents of CWP No. 16330 of 2005 is to be settled according to AMIE/BE share quota posts available.</p> <p>We submit the following facts to the committee members:-</p> <ol style="list-style-type: none"> <li>1. We had qualified the examination of AMIE/BE prior to the private respondents, Kashmir Singh, Rajiv Mishra, Naresh Makkar etc. and in terms of Regulation 9, we were entitled to be considered and promoted to the post of Assistant Engineer prior to the juniors. CWP No. 6557 of 1993 was filed by Rajender Singh Redhu and others in Hon'ble Court for quashing the promotion orders of juniors respondents and to consider the claim of the petitioners for promotion to the post of Assistant Engineer w.e.f. the dates the Junior Private Respondents were considered and promoted with all consequential benefits.</li> <li>2. Hon'ble Court vide its order dated 29.07.1997 set aside the promotion orders of junior respondents (presently working in UHBVNL/DHBVNL/HVPNL) and directed the erstwhile HSEB to consider the promotion of petitioners with all consequential benefits. Further Punjab &amp; Haryana High Court vide its Judgment dated 17.12.2004 passed in LPAs No. 657 and 641 of 1997, upheld the order dated 29.07.1997. All the four corporations i.e HVPNL, HPGCL, UHBVNL &amp; DHBVNL were party to the said LPAs. No SLP was filed by any corporation i.e HVPNL, HPGCL, UHBVNL &amp; DHBVNL in the Supreme Court, thus the judgment of High Court attained its finality and was implemented by all the Haryana Power Utilities.</li> <li>3. It is also added that during pendency of the LPA,s the erstwhile HSEB was bifurcated into HPGCL and HVPNL vide notification dated 14/8/1998 vide rules called " Haryana Electricity Reform (Transfer of Undertaking, Assets, Liabilities, Proceedings and Personnel) Scheme Rules 1998"</li> </ol> <p>That clause 8 of the said notification is reproduced below:</p> <p>"All proceedings of whatever nature by or against the board or the state government, as the case may be, pending on the effective date shall not abate or discontinue or otherwise in any way prejudicially be affected by reason of any transfer effected under these rules but the proceedings may be continued, prosecuted and enforced by or against the transferee to whom the same are assigned in accordance with these rules. Such proceedings may be continued in the same manner and to the same extent as would or might have been continued, prosecuted and enforced by or against the board if the transfers specified in these rules had not been made".</p> <ol style="list-style-type: none"> <li>4. That on bifurcation we were allocated to HPGCL whereas our juniors were allocated to HVPNL.</li> <li>5. That vide notification dated 1/07/1999 two more companies namely</li> </ol>

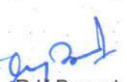
  
R.K. Chandan  
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Secretary


  
Rajesh Khandelwal  
Member-cum-GM/Admn,  
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UHBVNL and DHBVNL were created 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 Ltd to Distribution Companies) Rules 1999.

That Clause 6 of the said rules is reproduced below: "All proceedings of whatever nature by or against HVPN or against the Board which have been assumed by HVPN under the first Transfer Scheme, pending on the effective date, shall not abate or discontinue or otherwise in any way prejudicially affected by reason of any transfer effected under the Transfer Scheme. Subject to what is provided in the Transfer Scheme, such proceedings may be continued by or against the concerned transferee, in the same manner and to the same extent as would or might have been continued, prosecuted and enforced by or against HVPN had the transfers specified in the Transfer Scheme had not been made".

6. That after notification dated 1/07/1999 our juniors who were allocated to HVPNL were further allocated between HVPNL, UHBVNL and DHBVNL.

7. In compliance to Hon'ble High Court orders dated 17.12.2004, we were granted deemed date promotion w.e.f. 18.12.91/19.02.92 at par with our juniors. Taking in to account the date of passing AMIE/BE of 16 petitioners viz a viz Kashmir Singh, Rajiv Mishra and Chander Pal Singh (Respondents), the seniority of petitioners was also allowed above to Kashmir Singh, Rajiv Mishra and Chander Pal Singh vide Chief Engineer/Admn., HPGCL O/o No. 330/ HPG/GE-623 dated 15.09.2005.

8. It is pertinent to mention here that specific relief vide Judgment dated 29.07.97 & 17.12.2004 was for specific persons i.e Rajender Singh Redhu & others. We, the specific beneficiaries of judgment dated 17.12.04, have not been granted relief by the HPGCL, whereas similarly situated AMIE/BE engineering subordinates of HVPNL/UHBVNL such as Kuldeep Singh, Rajeev Anand, J.C. Sharma, Surender Kumar Makkar and Anil Kumar Gupta have been granted deemed date seniority as AE w.e.f. 18.12.91/11.10.93 on the basis of very same Judgment passed by Honorable High Court in CWP No. 6557 of 1993 (Rajender Singh Redhu & others vs HSEB ) vide HVPNL o/o No. 48 / EBG-3021 dated 20.03.06, o/o No. 380 / UH / HR-II / EBG-2636/L dated 21.06.06 and o/o No. 542 / UH / HR-II / EBG-2636/L dated 12.09.06. All of them are now working as Executive Engineer.

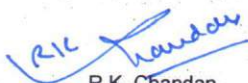
9. The deemed date seniority of Assistant Engineer as granted by HPGCL vide order dated 15.09.05 was challenged by Direct Recruits by filing CWP No. 8431 of 2007 titled Narender Sharma & Others v/s HPGCL. The main grievance of the direct recruitees was that:-


a) Seniority of the petitioners who are direct recruits and joined the Nigam from 1993 onwards, can not altered to their disadvantage by assigning deemed date of promotion to the private respondents vide orders dated 15.09.05.

b) Any promotion to the rank of Assistant Engineers made in excess of the quota of 12.5 % of Engineering Subordinate AMIE / BE Degree Holders are not sustainable in the eyes of law and the promotees who have been given the benefit of such promotions shall be entitled to grant of seniority etc. only when the posts in their quota are available.

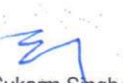
10. During the pendency of CWP No. 16330 of 2005, 8431 of 2007, 13409 of 2007 authorities did not finalize that whether seniors (Rajender Singh Redhu & others) or juniors (Kashmir Singh, Rajiv Mishra, Naresh Makkar etc.) are in excess of quota. Even though, Haryana Power Utilities further granted deemed date seniority of AE to P.K.Jagga, RakeshSingla, Sube Singh, S.C. Vats, Sangam Patel w.e.f. 11.10.93, 01.01.93 vide HVPNL o/o No. 173 / EBG — 2940 dated 29.7.08 / 5.8.08.DHBVNL O/o No. 206/GM/Admn. dated 24.06.11, UHBVNL o/o No. 119/UH/HR-II dated 09.08.2012, HPGCL O/o No. 790/HPG/GE-623 dated 21.12.12. These deemed date seniority were granted without finalization of AMIE/BE share quota in erstwhile HSEB during 1993. All the above, are also junior to us in the ranking position of AMIE/BE engineering subordinates of erstwhile HSEB.

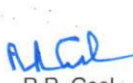
11. But in our matter, Chief Engineer/Admn., HPGCL vide Memo No. Ch-12/HPG/Court case -218/L dated 17.01.2008 issued instructions that "increments falling on 1.1.2007 onwards to Rajender Singh Redhu & Others may not be granted and drawn as the same would amount to contempt of High Court's orders. The Rule 4.7 of CSR Vol-1(Part-1) provided that an increment shall ordinary be drawn as a

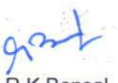
  
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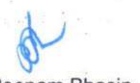
  
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matter of course, unless it is withheld by a competent authority if employee conduct has not been good or his work has not been satisfactory. Thus, on discharging the satisfactory duties as AE, withheld of annual increments is a punishment without any fault.

In view of above, the following is submitted for consideration of committee members please:-

1. Seniority allowed to us vide order dated 15.09.05 was challenged by the direct recruitee petitioners of CWP No. 16330 of 2005, 8431 of 2007, 13409 of 2007. Petitioners had prayed in writ petition that any promotion to the rank of Assistant Engineers made in excess of the quota of 12.5 % of Engineering Subordinate AMIE / BE Degree Holders are not sustainable in the eyes of law and the promotees who have been given the benefit of such promotion shall be entitled to grant of seniority etc. only when the posts in their quota are available.

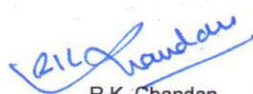
As per the settled law, a direct recruitee will get the seniority from the date he is borne on the cadre while a promotee will get the seniority from the date promote share quota post is available. So, direct recruitees can not contest the seniority of promotees, if seniority assigned to a promotee is against the quota post meant for the promotees. Similarly, a promotee can not claim the right of seniority against the quota post meant for direct recruitees.

2. Our juniors (respondents of CWP No. 6557 of 1993) are now working as Executive Engineer despite their promotion orders from JE to AE were set aside vide Hon'ble High Court orders dated 29.07.97 & 17.12.04. We are still working as AE despite orders in our favour. So, in compliance to Hon'ble Court order dated 09.01.14, share quota vacancies of promotees and direct recruits may be finalized in terms of regulation in vogue and implemented during the period of erstwhile HSEB. Also inter-se ranking position of AMIE/BE engineering subordinates of erstwhile HSEB may be prepared in terms of regulation in vogue and implemented at the time of promotion / regularization of our juniors, Kashmir Singh, Rajiv Mishra etc. By taking date of passing the AMIE/BE exam of petitioners viz a viz respondents of CWP No. 6557 of 1993, their seniority shall be assigned finally when the posts in their own quota are available in erstwhile HSEB. Accordingly, the consequential benefits allowed to us i.e. further promotion of AEE & Executive Engineer, all arrears of pay along with interest, may be released to bring us at par with our juniors.

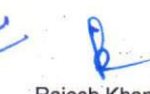
3. CWP No. 6557 of 1993 was allowed with all consequential benefits to the petitioners at par with their juniors respondents. As such, in compliance of Hon'ble High Court orders dated 29.07.97 and 17.12.04, petitioners have already been granted deemed date promotion at par with their juniors respondents vide order dated 15.09.05. However, their seniority inter-se with their juniors shall be finalized from the date of availability of AMIE/BE share quota post in the erstwhile HSEB.

It is well settled that promotees could reckon their service for the purpose of seniority from the date the post in their own quota become available and they are adjusted against the same. As such, the period between the date of promotion of petitioners of CWP No. 6557 of 1993 vide order dated 15.09.05 and the date the post in their own share quota in erstwhile HSEB became available and adjusted against the same, would not qualify for seniority as they would be deemed to be hanging outside service. Accordingly, annual increment withheld from 01/2007 to 01/2010 may be released without any further wait for the finalization of issue our seniority inter-se with our juniors.

4. The CWP No. 6557 of 1993 was filed during the period of erstwhile HSEB in connection to settle a dispute of right of promotion as AE among AMIE /BE engineering subordinates working in erstwhile. Hon'ble Court vide order dated 29.07.97 (upheld in LPA on 17.12.04) allowed specific relief for the specific persons, who had qualified the examination of AMIE/BE prior to private respondents and in terms of Regulation 9, they were entitled to be considered and promoted to the post of Assistant Engineer prior to the private respondents. Whereas all CWPs of connected matters in CWP No. 16330 of 2005 has been filed after bifurcation and only relates to HPGCL. It is therefore submitted that seniority of the petitioners of CWP No. 6557 of 1993 (at par with Kashmir Singh, Rajiv Mishra etc) may be finalized by the Committee of Members of Haryana Power Utilities on top priority. After that, parity / relief to similarly situated AMIE/BE engineering subordinates of

  
R.K. Chandan

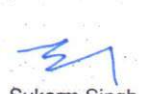
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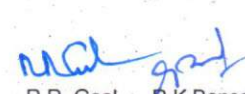
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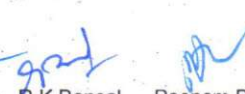
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