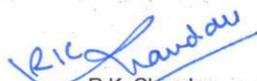
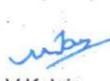


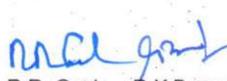
<p>HPGCL in connected matters of CWP No. 16330 of 2005 may be considered and finalized by the concerned Utility (HPGCL), subject to their satisfactory service record, passing of DAE, AMIE/BE quota post available.</p> <p>5. Our juniors, promoted / regularized from 18.12.91, 19.02.92, 11.10.93, have been further promoted as AEE, Executive Engineer in HVPNL, UHBVNL, DHBVNL. Whereas the petitioners of CWP No. 6557 of 1993 have been allocated to HPGCL are still working as AE. That for judiciously implementation of court orders, on finalization of assignment of our seniority above our juniors, we may be allocated in UHBVNL/DHBVNL/HVPNL and placed above our juniors so that specific relief allowed by the Hon'ble Court to the petitioners of CWP No 6557 of 1993 may be given without any further litigation. Clause 8 of notification dated 14/8/1998 and clause 6 of notification dated 1/7/1999 provide that all proceedings pending on the effective date can be enforced against the Transferee company (at present it is HVPNL, UHBVNL &amp; DHBVNL) in the same manner as would have been enforced against HSEB if the transfer specified in the notified rules had not been made.</p> <p>6. That if we shall be allocated to HVPNL, UHBVNL and DHBVNL and placed above our juniors, the entire controversy can be resolved. The decision in LPA was not challenged by our juniors or the erstwhile HSEB in the Hon'ble Supreme Court and the said judgments have become final. Our juniors cannot challenge the finalization of our seniority above them in HVPNL/UHBVNL/DHBVNL. Even the Directly Recruittees, petitioners of CWP No 16330 / 2005 CWP No. 8431 / 2007, presently working as Executive Engineer shall have no grouse on our allocation to HVPNL, UHBVNL and DHBVNL.</p> <p>7. It is also added that no any officer of HPGCL, petitioners, respondents or added Respondents of CWP No. 16330 of 2005 and connected CWPs of 16330 of 2005 may be considered for further promotion till the finalization of seniority of litigants to avoid legal complications and financial loss to Power Utilities. Also the engineering officers of HPGCL appointed/promoted after 1991 as Assistant Engineer may not be associated with the committee proceedings or work of re-assignment of seniority having implication with recasting of seniority based on the decision of CWP-16330 of 2005 as they may work with vested interest.</p>
<p><b>Crux of above mentioned pleadings:-</b>          Their main grouse is 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 and joined on 02.04.1993 &amp; 22.04.1999 respectively. They had contended that the HPGCL vide O/o No 330 dated 15.09.2005 has granted deemed date of promotion and seniority against direct quota post.</p>
<p><b>Recommendations of the Committee:-</b>          Deemed dates as AEs were given to Rajender Singh Redhu &amp; others in compliance to Judgement dated 17.12.2004 passed in their favour by Hon'ble High Court in LPAs no. 657 &amp; 641 of 1997. 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 &amp; 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:-</p> <p><i>"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."</i></p> <p><i>"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."</i></p> <p>This fact was not brought to the notice of Hon'ble High Court by the petitioners while filing CWP No 8431 of 2007, 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</p>

  
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 Secretary

  
 Rajesh Khandelwal  
 Member-cum-GM/Admn,  
 UHBVN

  
 V.K. Jain  
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 GM/UHBVNL

  
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 HPGCL

  
 Poonam Bhasin  
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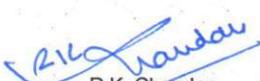
petitioners had joined against their direct quota posts after the promotees were adjusted against their available quota post.

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. 8431 of 2007 are not feasible of acceptance.

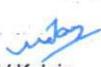
The Contentions made by respondents in personal hearing for their re-allocation to HVPNL, UHBVNL and DHBVNL are not feasible of acceptance as the erstwhile HSEB was bifurcated into HPGCL and HVPNL vide notification dated 14.08.1998 called "Haryana Electricity Reform (Transfer of Undertaking, Assets, 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. Under these schemes allocations were done as it is where it is basis. The present Committee cannot nullify or change the allocation done under statutory scheme.

**C CWP No. & Title :- CWP no. 13409 of 2007 titled as Sh. Atul Pasrija & others V/s UHBVNL & others (HPGCL is respondent No. 3). [Flag-10]**

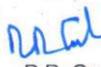
	Name of petitioners		Name of respondents
1	Atul Pasrija (1993 Batch)	1.	Rajiv Anand
2	Mukesh Chauhan (1993 Batch)	2.	J.C. Sharma
3	Palvinder Kumar (1993 Batch)	3.	S.K. Makkar
		4.	N.K. Khurana
		5.	P.L. Saluja
		6.	Subhash Chand Mittal
		7.	Rajinder Singh Redhu
		8.	Nand Kishore
		9.	Satbir Singh
		10.	Tilak Raj
		11.	Sushil Kumar Goyal
		12.	Sanjay Sidana
		13.	Seema Khurana
		14.	Ravinder Singh
		15.	Chanda Singh
		16.	Randhir Singh
		17.	Sanjeev Kumar
		18.	Dharam Pal
		19.	Baljit Singh
		20.	Raj Pal Singh
		21.	Sube Singh
		22.	Ram Jaway Gupta
		23.	Jai Pal Singh
		24.	Ram Niwas Rohila
		25.	A.P. Mehta
		26.	Chander Pal Singh
		27.	Virender Singh Kamboj
		28.	Parkash Chand Saini
		29.	Rajiv Misra
		30.	Manoj Kumar
		31.	Naresh Kumar Makkar

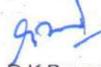
  
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HVPNL

  
R.R. Goel  
Member-cum-  
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DHBVNL

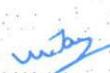
  
R.K. Bansal  
Member-  
CE/Admn.,  
HPGCL

  
Poonam Bhasin  
Chairperson-  
cum-LR/HPUs.

<p><b>Prayer of the Petitioner in CWP:-</b></p> <ol style="list-style-type: none"> <li>1. For quashing the order dated 21.06.2006 and order 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 657 of 1997 as the petitioners were not arrayed as parties in those petitions.</li> <li>3. The seniority of the petitioners who were direct recruit and joined the Nigam from 1993 onwards, cannot be altered to their disadvantage by assigning deemed date of promotion to the private respondents vide orders dated 21.06.2006 &amp; 15.09.2005.</li> <li>4. Any promotions to the rank of Asstt. Engg. made in excess of the quota of 12.5% of Engineering Subordinates, AMIE/BE degree holders are not sustainable in the eyes of law and promotes who have been given benefit of such promotions shall be entitled to grant of seniority etc. only when the posts in their quota are available.</li> <li>5. To stay the implementation of seniority list during the pendency of the petition.</li> </ol>
<p><b>Main thrust of the Utility to CWP:-</b></p> <ol style="list-style-type: none"> <li>1. Private Respondent No. 4 to 6 were granted deemed date promotion as AE vide order dated 21.06.2006 w.e.f. 18.12.1991 after considering the date of passing of AMIE/BE qualification and having 2 years service in the cadre of JE in terms of judgment rendered in CWP 6557 of 1993 and in LPA No. 657 of 1997 and 641 of 1997 vide order dated 17.12.2004 after reassigning the seniority as JEs Strictly adhering to the recruitment and promotion policy of the erstwhile HSEB circulated vide notification no. 21/REG-18 dated 21.02.1988 and notification no. 89/REG-18/L-II dated 13.02.1991.</li> <li>2. Some of the JEs were posted in Field Cadre and some in Generation Cadre. Respondent No. 4 to 6 were promoted as AE (Adhoc) against direct quota post by the erstwhile HSEB to meet with the exigency prevailing at that time. Respondents no 4 to 6 passed their AMIE on 20.4.88, 7.4.1989 and 25.3.1990 respectively and became eligible for promotion to the post of AE. They were promoted to the post of AE vide order dated 4.2.1991 and they joined against the post of JE Generation vide order dated 26.4.1991.</li> <li>3. Private respondents no. 7 to 21 were junior to the private respondents no. 4 to 6 and were working in Generation.</li> <li>4. Aggrieved by these private respondents 7 to 21 working in HPGCL filed CWP 6557 of 1993 against the earlier promotion of their counter parts. The writ petition was allowed by the Hon'ble High Court and the High Court found them senior in the cadre of JEs and allowed them to be considered for promotion as AE by quashing the promotion orders P-2 to P-4.</li> <li>5. Erstwhile HSEB was bifurcated into HVPN &amp; HPGC on 14.08.1998 and further into UHBVN and DHBVN on 01.07.99. By virtue of the transfer scheme the employees stood allocated to respective Nigam and for all intent and purposes they were employees of that Nigam where they stood allocated. The present petitioners were already working in Thermal and as such they stood allocated to General on "as is where basis is". Private respondents no. 4 to 6 working as AE in HVPNL were allocated to UHBVN. Private respondents no. 4 to 6 acquired the qualification of AMIE/BE during the tenure of their service as JE. They also completed 2 years service as JE. They were given deemed date promotion to the post of AE after reassigning them seniority as JE and they have been placed above the petitioners in the seniority list of AE. Private respondents no. 4 to 6 were given deemed date promotion to the post of AE placed above the petitioners in the seniority list of AE which was circulated on 28.08.2006 and names of private respondents no. 4 to 6 were reflected as sr. no. 57, 58, 59 respectively. The names of the petitioners were shown at sr. no. 63, 67 &amp; 66 respectively. Tentative seniority list of AEE was also circulated on 08.03.2007 and name of private respondents were reflected at serial no. 46 A, 46 and 47 and petitioners were shown at serial no. 58, 51 and 60.</li> <li>6. Respondents no. 3 to 17 were given deemed date promotion in order to implement the orders of the Hon'ble High court passed in CWP no. 6557 of 1993 titled as Rajender Singh Redhu and others Vs HSEB.</li> <li>7. The respondents no. 3 to 6 were appointed by the board in the year 1989 as JE trainee and after successful completion of their trainee they were appointed as</li> </ol>

  
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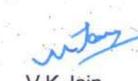
  
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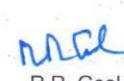
	<p>JE Generation vide order dated 12.01.1989. Some of the JEs junior to respondents no. 4 to 6 were promoted as AE (Adhoc) by the erstwhile HSEB vide order annex. P-2 and P-4. Keeping in view the seniority of JEs in the field cadre but private respondents no. 3 to 6 could not get promotion to the post of AE because they were working in HPGCL and their seniority was separated and fixed on Generation side. The private respondents no. 3 to 6 represented for grant of deemed date promotion which was allowed by competent authority vide order dated 21.06.2006 in view of judgment passed by Hon'ble High Court in LPA no. 657 of 1997 and 641 of 1997 after taking in to consideration the date of passing AMIE/BE.</p> <p>8. Respondents no. 3 to 17 were given deemed date promotion in order to implement the orders passed in CWP no. 6557 of 1993 out of these 15 private respondents, 11 JEs (respondents in present CWP) who have been given deemed date of promotion were posted in BBMB against share quota post of State of Haryana and remaining for JEs (respondents in present CWP) were posted in HPGCL against the post of AEs lying vacant in thermal plant Panipat.</p> <p>9. The AMIEs have been promoted in excess of stipulated 12 ½% quota whereas a perusal of statement showing date of joining and promotion of respondents (Asstt. Engg.) in generation cadre from the year April 1998 to 2004 clearly show that the quota position inter-se direct recruits and promotes had been reflected separately for Generation Cadre. Regarding the promotions made in the month of April and May 1991, it is submitted that six promotes have been shown as promoted on adhoc basis. On 11.01.1991 the AMIE degree holders relating to 12 ½% quota had a short fall of one post and as such, there was no question of such category occupying posts falling to the directs (65%). As on 11.10.1993, the direct recruits have been shown to be 23 in excess of their quota and the AMIEs i.e. the category to which the private respondents no. 4 to 6 belong have been shown to be seven in excess of their quota. The vacant posts of Asstt. Engg. falling under 65% quota meant for direct recruitment could be filled up by promotion amongst the already serving engineering subordinate having AMIE/BE qualifications in excess of their quota posts i.e. 22 ½% + 12 ½% for the smooth running of the work. In the year 1990, 1992 and 1993, the recruitment of incumbents against 65 % quota was also in excess of the vacancies of Generation /Projects side. Therefore, the private respondents no. 4 to 6 in this writ petition fall within the share quota posts and deemed date promotion allowed to them cannot be considered in excess of their share quota posts.</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> <p>a.) 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, fulfillment of eligibility conditions, availability of quota post and accordingly the due position in the promotional slot is assigned to each person. This exercise should be done for each person i.e. Engg. Subordinates (whether Diploma holders or AMIE holders).</p> <p>b.) 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.</p> <p>c.) 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.</p> <p>d.) 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.</p> <p>e.) The Hon'ble court has not given any concurrence to the deemed date of seniority assigned to any of the litigant (Engg. Subordinate). Therefore, no such</p>

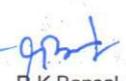
  
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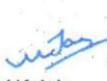
  
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	<p>deemed date under litigation may be considered as this tantamount to contempt of court.</p> <p>f.) That all the matters contained in the connected cases along with CWP 16330/2005 have been taken care while doing the exercise by the committee.</p> <p>g.) The exercise for the implementation of judgment dated 09.1.2014 should be made total transparent to all concerned and report be made available before implementing it.</p>
	<p><b>Written submission of the private respondents in Personal Hearing:-</b></p> <p>We, the respondents of subject cited CWP-13409 of 2007, are thankful to the committee members of all Haryana Power Utilities for giving us an opportunity of Public Hearing. The CWP no. 13409 of 2007 has been disposed off along with CWP-16330 of 2005 on 09.01.2014 with the direction to act in terms of the decision taken on 15.05.2012 to settle the rights of the parties. While making the exercise, Judgments passed in favour of Rajender Singh Redhu &amp; others and similarly situated persons be kept in mind. 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 in view of AMIE/BE share quota posts available.</p> <p>We respondents of CWP no. 13409 of 2007 submit the following facts to the committee members.</p> <p>1. Punjab &amp; Haryana High Court vide its order dated 29.07.1997 set aside the promotion orders of our junior respondents in CWP-6557 of 1997 (presently working in UHBVNL/DHBVNL/HVPL) and directed the erstwhile HSEB to consider the promotion of Rajender Singh Redhu and others 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. No SLP was filed in the Supreme Court, thus the judgment of High Court attained its finality. In compliance to this, we were granted deemed date promotion and seniority of Assistant Engineer at par with our juniors and 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/HPGCL O/o No. 330/ HPG/GE-623 dated 15.09.2005.</p> <p>2. 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. 16330 of 2005 titled Parveen Arora &amp; Others v/s HPGCL &amp; Others, CWP No. 8431 of 2007, titled Narender Sharma &amp; Others v/s HPGCL &amp; Others, CWP no. 13409 of 2007 titled Atul Pasrija v/s UHBVNL &amp; others. The main grievance of the direct recruitees was that:-</p> <p>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.</p> <p>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.</p> <p>In this context it is clarified that the petitioner in CWP 13409 of 2005 is a direct recruitee of 1993 batch (65% quota) of erstwhile HSEB. As per law, a direct recruitee of 1993 batch cannot claim the post of AE of 1991/1992 when he himself is borne in the cadre of AE in 1993. Even otherwise 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 quota post is available. The petitioner can claim the right of seniority against Direct Quota post only after 1993.</p> <p>3. Further, that after the decision by the Ld Single Judge dated 29/7/1997 and during pendency of the LPA,s the erstwhile HSEB was bifurcated into HPGCL and HVPL vide notification dated 14/8/1998 vide rules called " Haryana Electricity Reform (Transfer of Undertaking, Assets, Liabilities, Proceedings and Personnel) Scheme Rules 1998"</p>

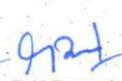
  
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That clause 8 of the said notification is reproduced below:

"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".

4. That on bifurcation we were allocated to HPGCL whereas our juniors were allocated to HVPNL.

5. That vide notification dated 1/07/1999 two more companies namely 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.

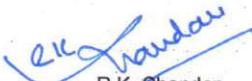
That Clause 6 of the said rules is reproduced below: "All proceedings of whatever nature by or against HVPN or against the Board which have been assumed by HVPN under the first Transfer Scheme, pending on the effective date, shall not abate or discontinue or otherwise in any way prejudicially affected 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.

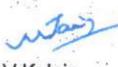
7. Further on the basis of Judgment of Hon'ble Punjab and Haryana High Court dated 17.12.2004 passed in LPAs No. 657 and 641 of 1997, many similarly situated officials of UHBVNL have been granted deemed date promotion and consequential benefits. It is pertinent to mention here that specific relief vide Judgment dated 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 on the basis of very same Judgment w.e.f. 18.12.91/11.10.93 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.

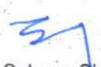
8. During the pendency of CWP No. 16330 of 2005, Haryana Power Utilities has not done any exercise to calculate the availability of AMIE/BE share quota post in erstwhile HSEB on 18.12.91, 19.02.92, 11.10.93 (the dates our juniors were regularized). Even then, Haryana Power Utilities further granted deemed date seniority of AE to P.K.Jagga, Rakesh Singla, Sube Singh, S.C. Vats, Sangam Patel w.e.f. 11.10.93, 01.09.93 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. The above mentioned officials are junior to us in the ranking position of AMIE/BE engineering subordinates of erstwhile HSEB.

9. 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 these AEs may not be granted and drawn as the same would amount contempt of High Court's orders dated 23.10.2006". Though, there is no any High Court direction whatsoever for withheld of annual increments Rajender Singh Redhu and others have discharged the duties of Assistant Engineer with satisfactory work & conduct during 01/2007 to 01/2010. The Rule 4.7 of CSR Vol-1(Part-1) provided that an increment shall ordinary be drawn as a 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 we have been punished

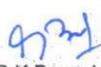
  
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without any fault.

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

1. CWP No. 6557 of 1993 was allowed with all consequential benefits, as such, in compliance of Hon'ble High Court orders dated 29.07.97 and 17.12.04, our deemed date promotion shall always be at par with our juniors. The seniority of the petitioners and respondents of CWP No. 6557 of 1993 shall be finalized from the date of availability of share quota post in the erstwhile HSEB by taking in to account of date of passing the AMIE/BE as per the regulations in vogue. The period from the deemed date promotion i.e 18.12.91/19.02.92/11.10.93 and the date of finalization of seniority in the cadre of AE shall be hanging outside the cadre as AE/Adhoc. There is no any dispute in context to deemed date promotion of the petitioners of CWP No. 6557 of 1993 at par with respondents. Accordingly, benefit of pay fixation in HPGCL pay scale as a consequence of deemed date of promotion, withheld of annual increment from 01/2007 to 01/2010 may be released without any further wait for finalization of seniority in the cadre of AE.

2. Direct Recruittees had prayed 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. So, promotees and direct recruits share quota vacancies may be calculated 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. The seniority of the petitioners and respondents of CWP No. 6557 of 1993 shall be finalized from the date of availability of share quota post in erstwhile HSEB by taking in to account of their date of passing the AMIE/BE. The period from the deemed date promotion i.e 18.12.91/19.02.92/11.10.93 and the date of finalization of seniority in the cadre of AE shall be hanging outside the cadre as AE/Adhoc. Accordingly, our seniority in the cadre of AE may be finalized and all the consequential benefits allowed to us i.e. further promotion of AEE & XEN, all arrears of pay along with interest, may be released to bring us at par with our juniors.

3. Our juniors, promoted / regularized from 18.12.91, 19.02.92, 11.10.93, have been further promoted as AEE, Executive Engineer in HVPNL, UHBVNL, DHBVNL. Whereas the petitioners of CWP No. 6557 of 1993 have been allocated to HPGCL are still working as AE. The seniority of the petitioners and respondents of CWP No. 6557 of 1993 may be finalized from the date of availability of share quota post. That for judiciously implementation of court orders, on finalization of seniority in the cadre of AE above our juniors, we may be allocated in UHBVNL/DHBVNL/HVPNL and placed above our juniors so that specific relief allowed by the Hon'ble Court to the petitioners of CWP No 6557 of 1993 may be given without any further litigation. Clause 8 of notification dated 14/8/1998 and clause 6 of notification dated 1/7/1999 provide that all proceedings pending on the effective date can be enforced against the Transferee company (at present it 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.

4. That on finalization of our seniority above our juniors in the cadre of AE, we may be allocated to HVPNL, UHBVNL and DHBVNL and placed above our juniors, so that the entire controversy can be resolved. The decision in LPA was not challenged by our juniors or the erstwhile HSEB in the Hon'ble Supreme Court and the said judgments have become final. Our juniors cannot challenge the finalization of our seniority above them in HVPNL/UHBVNL/DHBVNL. Even the Directly Recruited Assistant Engineers who have filed CWP No 16330 of 2005 will have no grouse on our allocation to HVPNL, UHBVNL and DHBVNL. It is pertinent to mention here that Directly Recruited Assistant Engineers are now holding the post of Executive Engineers.

5. The CWP No. 6557 of 1993 was of erstwhile HSEB to settle a dispute of

  
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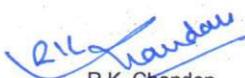
  
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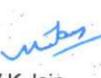
  
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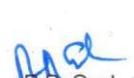
<p>right of promotion as AE among AMIE/BE engineering subordinates working in erstwhile HSEB. Whereas all CWPs of connected matters in CWP No. 16330 of 2005 relate to HPGCL. So the specific relief allowed by the Hon'ble Court vide order dated 17.12.04 was for the specific persons (petitioners), who had qualified the examination of AMIE/BE prior to all the 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. As such, parity /relief to the petitioners of CWP No. 6557 of 1993 (at par with Kashmir Singh, Rajiv Mishra etc) may be finalized by the Haryana Power Utilities on top priority. After that, parity/ relief to similarly situated AMIE/BE engineering subordinates of HPGCL in connected matters of CWP No. 16330 of 2005 may be considered by the HPGCL, subject to satisfactory service record and AMIE/BE share quota post available.</p> <p>6. No any officer of HPGCL, petitioners, respondents or added Respondents of CWP No. 16330 of 2005 and connected CWPs in 16630 of 2005 may be considered for further promotion till the finalization of seniority of litigants to avoid legal complications and financial loss to Power Utilities.</p> <p>7. The engineering officers of HPGCL appointed/promoted after 1991 as Assistant Engineer may not be associated with the committee proceedings or work of re-assignment of seniority having implication with recasting of seniority based on the decision of CWP-16330 of 2005 as they may work with vested interest.</p>
<p><b>Crux of above mentioned pleadings:-</b></p> <p>Their main grouse is 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 and joined on 02.04.1993 &amp; 22.04.1999 respectively. They had contended that the HPGCL vide O/o No 330 dated 15.09.2005 has granted deemed date of promotion and seniority against direct quota post.</p>
<p><b>Recommendations of the Committee:-</b></p> <p>Deemed dates as AEs were given to Rajender Singh Redhu &amp; others in compliance to Judgement dated 17.12.2004 passed in their favour by Hon'ble High Court in LPAs no. 657 &amp; 641 of 1997. 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 &amp; 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:-</p> <p><i>"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."</i></p> <p><i>"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."</i></p> <p>This fact was not brought to the notice of Hon'ble High Court by the petitioners while filing CWP No 13409 of 2007, 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 after the promotees were adjusted against their available quota post.</p> <p>After due consideration of above factual and legal position in this regard, the committee is of the firm view that the contentions made by Sh. Atul Pasrija &amp; others in CWP no. 13409 of 2007 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.</p>

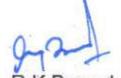
  
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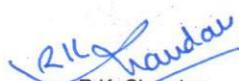
  
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<b>D</b>	<b>CWP No. &amp; Title :- CWP No. 12395 of 1997 titled as R.P. Garg Vs HSEB &amp; others. [Flag-12]</b>		
	Name of petitioners		Name of respondents
	1. R.P. Garg	1.	Jaswant Singh Chaudhary
		2.	Narinder Singh
	<b>Prayer of the Petitioner in CWP:-</b>		
	<p>1. For directions to respondent no. 1 and 2 that the representation of the petitioner be accepted and the case of petitioner be considered in the same manner in which that of respondents no. 3 and 4 has been dealt with after doing so to accord him his rightful place in the seniority.</p> <p>2. To grant all consequential benefits to the petitioner viz increments, service benefits of promotion along with difference of back wages and interest on the arrears at the prevalent market rate.</p>		
	<b>Main thrust of the Utility to CWP:-</b>		
	<p>1. The petitioner was initially appointed as cooling tower operator in thermal power project, Faridabad. His seniority in the rank of operator was assigned at Seniority No. 1(a) in the Feeder Cadre vide order dated 12.6.84. Respondent no. 3 &amp; 4 were transferred from Thermal to Operation on the ground that their service were retrenched and adjusted against the post of line superintendent.</p> <p>2. The designation of Thermal Operator was re-designated as JE/ Thermal which is a different cadre to the JE/Field or LS- Grade I/ Grade- II and both have different channel of promotion.</p> <p>3. Respondent No. 3 was promoted to the post JE-I vide order dated 5.2.96 w.e.f. 25.11.71 in view of the orders dated 14.8.95 passed by sub judge Panipat. Respondent No. 4 was promoted to the post of JE-I w.e.f. 9.7.71 vide office order dated 29.11.96 in view of the order dated 30.08.96 passed in CWP 13328 of 1996.</p> <p>4. Respondents No. 3 &amp; 4 became senior to the petitioner as they were allowed deemed date of promotion as JE-I/AE/AEE where as the claim of the petitioner is barred by limitation.</p> <p>5. The petitioner is junior to the respondent no. 3 &amp; 4 in the rank of JE-I,AE, AEE as per seniority list of JE-I/AE and AEE because the petitioner was promoted later to the respondents being separate cadre.</p> <p>6. The post of LS-I and LS-II were merged and re-designated as LS vide order dated 28.2.68.</p>		
	It was therefore, contended that petition may be dismissed.		
	<b>Written submission of the petitioners in Personal Hearing:-</b> The petitioner has not made any written submission.		
	<b>Written submission of the private respondents in Personal Hearing:-</b> The respondents have not made any written submission.		
	<b>Crux of above mentioned pleadings:-</b> The petitioner joined as operator in the erstwhile HSEB on 23.06.1966 and the respondent no. 3 and 4 joined as operator w.e.f. 06.02.1967 and 05.07.1966 respectively. The petitioner as well as respondent no. 3 and 4 joined the erstwhile HSEB in Thermal Cadre. In the year 1968, the respondent no. 3 and 4 were transfer to the Field Cadre whereas the petitioner was retained in Generation Cadre. The operators in thermal plant were re-designated as JE thermal. The respondent no. 3 and 4 were promoted as JE grade-I w.e.f. 18.09.1980 and 07.01.1982. The petitioner was promoted as JE on 18.09.1980. The petitioner was promoted as AE on 11.05.1988 and AEE on 02.11.1996. Respondent no. 3 and 4 were promoted to the rank of AE on 23.08.1990. The respondent no. 3 was assigned deemed date seniority as AE w.e.f. 01.10.1974 and AEE w.e.f. 01.06.1980 vide order dated 24.07.1996. The respondent no. 4 was assigned deemed date seniority as AE w.e.f. 01.08.1974 and as AEE w.e.f. 28.02.1980. The perusal of record reveals that 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		

  
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<p>Cadre or otherwise was duly considered and the decision was circulated vide Memo No.Ch-81/NGE/G-105 dated 29.04.1988. Thus, their allocation as JE/Generation or JE/Field had achieved finality which cannot be undone under the garb of directions contained in Judgement dated 17.12.2004 passed in LPAs no. 657 &amp; 641 of 1997, as claimed by the petitioners.</p>					
<p><b>Recommendations of the Committee:-</b>  The perusal of record reveals that in compliance of decision of Hon'ble High Court in CWP No. 2953 of 1987 titled as S.P. Kapoor, JE &amp; others Vs HSEB, options were invited from amongst all JEs (including present petitioners at Sr. no. 1 to 7) working in Thermal/Hydel Projects in HSEB vide memo no. 36/NGE/O-105 dt. 11.11.1987. After receipt of options, the suitability of such JEs being absorbed in Generation Cadre or otherwise was duly considered and the decision was circulated vide Memo No.Ch-81/NGE/G-105 dated 29.04.1988. Thus, their allocation as JE/Generation or JE/Field had achieved finality which cannot be undone under the garb of directions contained in Judgement dated 17.12.2004 passed in LPAs no. 657 &amp; 641 of 1997, as claimed by the petitioners.</p> <p>All averments made in CWP No. 12395 of 1997 of R P Garg reveals that he was working as operator in the erstwhile HSEB on 23.06.1966 in Thermal Cadre. The petitioner was promoted as JE on 18.09.1980, AE on 11.05.1988 and AEE on 02.11.1996, may it be Hydel/Thermal, their options were called and they were absorbed in Generation/Field Cadre as per their suitability based upon their options received. Their list was duly circulated, thus, this settles the claim of the JEs who were in service as on 11.11.1987. As such, no merger of cadre is required to be made and this case is distinct from the facts contained in the Judgement dated 29.07.1997 in CWP No 6557 of 1993 titled Rajinder Singh Redhu and Judgement dated 17.12.2004 in LPA no. 657 of 1997 &amp; LPA no. 641 of 1997.</p> <p>After due consideration of factual and legal position in this regard, the committee is of the view that the contentions made by the petitioner Sh. R.P. Garg in CWP No. 12395 of 1997 are not feasible of acceptance.</p>					
<p><b>E CWP No. &amp; Title:- CWP NO. 17721 of 2006 titled as Dharambir V/s Haryana Power Generation Corporation Limited. [Flag-15]</b></p>					
	<table border="1"> <thead> <tr> <th>Name of petitioners</th> <th>Name of respondents</th> </tr> </thead> <tbody> <tr> <td>1 Dharambir</td> <td>No person was impled as private respondent.</td> </tr> </tbody> </table>	Name of petitioners	Name of respondents	1 Dharambir	No person was impled as private respondent.
Name of petitioners	Name of respondents				
1 Dharambir	No person was impled as private respondent.				
<p><b>Prayer of the Petitioner in CWP:-</b></p> <ol style="list-style-type: none"> <li>For directing the respondent to refix the seniority of the petitioner and bring him on the part with his junior Sh. G.S Bawa, Asstt. Executive Engg.</li> <li>Arrears of wages on the promotion post for the last 3 years may also been granted.</li> </ol>					
<p><b>Main thrust of the Utility to CWP:-</b></p> <ol style="list-style-type: none"> <li>The erstwhile HSEB on 11.09.1987 vide policy decision bifurcated the cadre of JEs into two cadres i.e. (i) Generation Cadre and (ii) Field Cadre.</li> <li>Vide memo no. 36/NGE/105 dated 11.11.87 to call options of all the JEs working in the Generation Projects of board on the prescribed Performa. The General Manager/Plants, PTPS, Panipat vide its order no. 776/EOM/G-242 dated 26.12.1989 constituted a Screening Committee for Generation Cadre to Screen the General Suitability of JEs working under Thermal/Hydel Projects for their absorption/retention in Generation Cadre. The petitioner gave his unconditional option which was considered and accepted by the Member Technical/G&amp;P Panchkula.</li> <li>It is completely wrong that the petitioner belonging to the field cadre has been highly discriminated as compare to Gurcharan Singh Bawa. G.S. Bawa having qualification of Mechanical Engineering degree and 1st class boiler competency certificate, was appointed directly as JE/Thermal (now designated as JE/Generation) in the erstwhile Board and joined the Thermal Project, PTPS, Panipat on 06.09.1974.</li> <li>Sh. G.S Bawa, JE-I Generation having the qualification of Mechanical</li> </ol>					

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