

KERALA ELECTRICITY EMPLOYEES' CONFEDERATION INTUC



(Reg.No. 01-14/87- Aff. 10485)

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PRESIDENT K.P. DHANAPALAN Ex.M.P	GENERAL SECRETARY SIBYKUTTY FRANCIS	TREASURER V. GOPAKUMAR
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Thiruvananthapuram
12.6.2015

To
The Secretary,
Power (C) Department

Sir,

Sub: Appointments in KSEB Ltd through KPSC-Correction of provision Govt.
Order-repeated request submitting – Reg.

- Ref: 1. G.O (MS)No.26/2014/PD/14.8.2014
2. This office letter dated 7.10.2014 submitted to the Chairman &
Managing Director, KSEB Ltd
3. That office letter No. 9205/C1/2013/PD dated 17.10.2014
4. The KPSC (Additional Functions) Act, 1963
5. The KPSC (Additional Functions as Respect Certain Corporation and
Companies) Act, 1970

In response to that Office letter cited under reference (3), the following facts are submitted for your perusal and favourable orders.

The KPSC (Additional Functions) Act, 1963 is a legislation exclusively enacted for the erstwhile KSEB, and the KPSC (Additional Functions) (Consultation) Rules, 1966 are framed there under in exercise of powers conferred by sections 3 and 4 of the Act.

On comparing this Act, with the KPSC (Additional Functions as Respects certain Corporation and Companies) Act, 1970 certain differences certainly appears.S.3 (1) of the 1963 Act, says that the Public Service Commission shall be consulted on all matters relating to method of recruitment, where as the S.3 (2) of 1970 Acts says that the Board of Directors of Government company may consult the Public Service Commission on all matters relating to the methods of recruitment. Unlike Kerala Public Service Commission (Additional Functions) Act, 1963 relating to the under KSEB, the Public services Commission (Additional Functions as respects certain Corporation and Companies) 1970 Act is only permissive in nature. In the cases of recruitment to the Kerala State Electricity Board it is mandatory under 1963 Act for the KSE Board to consult the KPSC in respect of matters specified in the Act subject to exclusion made by means of rules framed by the Government.

In the KPSC (Additional Functions) (Consultation) Rules 1966 there is an exclusive part II listing matters in which such consultation shall not be necessary. Such a corresponding exemption part is absent in KPSC (Consultation by corporation and Companies) Rules, 1971 giving the impression that the consultation process itself is not mandatory.

Moreover, since clause (2) t of the tripartite agreement, it is agree to continue the KPSC (Additional Functions) Act, 1963 in KSEB Ltd, it becomes incumbent both on the Government and the KSEB Ltd to uphold the agreement clause, for that, certain amendments in the Act, 1963 regarding the definition of 'Board' and also in the nomenclature 'KSEB Ltd' in place of Board and certain other incidental amendments would have been suffice.

That office comment that" except for the change in the Status applicable, there is no significant difference between the provisions in the GO and the Tripartite Agreement" has been unfortunate and specious. Actually the Tripartite Agreement itself of the transfer scheme and any such waywarding from the agreement in violation of the scheme may not augur well for the robust future of this public establishment, KSEB Ltd.

Tripartite Agreement has legal value since it became a part of transfer scheme which is a part of Act, 2003. Before signing the agreement discussions were made between Trade unions and Associations of officers officials and finally it was signed. The government order violating the agreement cannot be allowed and entertained. KSEB Ltd is a Government Company having 100% share with Government. Also it is pointed out that KSEB Ltd is a Company continuing all the status of KSE Board, such as at par the rules of KSR, KSSR, MDP, service conduct rules and other orders etc. Hence KPSC (Additional Functions) act, 1963 is applicable to KSEB Ltd as per the Tripartite Agreement signed and under the above facts. Hence the decision conveyed by that office may be re-examined and favourable orders as per the Tripartite Agreement may be issued. Tripartite Agreement is legally valid document. The unions signed in the agreement are trade unions registered under Trade union Act 1926. Any adverse decision on the agreement will cause industrial dispute and the parties signed will be forced to challenge the decision in the court of law. This may lead, break of peace in the industry.

We are sanguine that your august office will e-examine the case, relenting from the earlier stand and would re instate the KPSC (Additional Functions) Act, 1963 with necessary amendments, in KSEB Ltd as agreed to in the Tripartite Agreement.

Thanking you,

Yours faithfully,



General Secretary

Copy to : Chairman & Managing Director, KSEB Ltd