

KERALA STATE ELECTRICITY BOARD
PROCEEDINGS OF THE CHIEF ENGINEER (HRM)
KSE BOARD, THIRUVANANTHAPURAM

Present :Smt K.Valsakumari

**Sub: Judgement dated 29/11/2011 of the Hon'ble High Court of Kerala in
WP(C) No 31739/2011 filed by Smt V.Geetha & another –Court
Directions - Seniority List of Divisional Accountant finalized - Orders issued**

No.EB.Gr.1/GL/DA/2009-10	Dated, Thiruvananthapuram 23.06.2012
Read: 1.	Judgement dated 29.11.2011 of the Hon. High Court of Kerala in WP(C) No 31739/2011.
2.	This Office Notice No. EB.Gr.1/GL/DA/2009-10 dated 08.03.2010
3.	Fresh representation submitted on 11.01.2012 by the petitioner.

ORDER

The KSE Board decided to prepare and publish a provisional Gradation List of Divisional Accountant. Accordingly, KSE Board prepared a provisional Gradation List of Divisional Accountant who were recruited /promoted during the period from 13.12.2001 to 05.03.2010 and published the same vide Notice No EB/Gr1/GL/DA/2009-10 dated 08.03.2010 in the website of KSE Board with a direction that addition/correction/omission if any in the provisional Gradation List should be reported. The petitioners and others filed their objections against the provisional Gradation List. While examining the objections, the petitioners approached the Hon'ble High Court by filing WP(C) 31739/2011 seeking an order directing the respondents for consideration of their objection to Exht P8 (provisional Gradation List of Divisional Accountant published vide notice dated 8.3.2010) and speedy finalization of the Gradation List.

The Hon'ble High Court of Kerala in its judgement dated 29.11.2011 in WP(C) 31739/2011 directed to consider the objections of the petitioners and others submitted to Provisional Seniority list of Divisional Accountant (Exht P8) in accordance with law and to finalize the seniority list of Divisional Accountant as expeditiously as possible. The Hon'ble High Court further directed that the petitioner may submit a fresh representation if they choose so and may also produce any additional documents in support of their claims. Following the judgement directions, the petitioners submitted a fresh representation .The main objections submitted by the petitioners against the Provisional seniority list of Divisional Accountant (Exht P8) are:

- a) They are entitled to get retrospective promotion to the category of Divisional Accountant with effect from 01.08.2004
- b) The seniority List of Divisional Accountant (Exh P8) has to be recasted and finalized by maintaining the ratio 1:1 between direct recruits and promotees by applying alternate ratio.

The matter was examined in detail. It is noted that the appointment /promotion of Divisional Accountant is governed by the B.O No 181/99 (Estt II/9285/82) dated 22.1.1999. As per the B.O, the appointment/promotion to the cadre of Divisional Accountant is done from three sources in the ratio 1:1:1 viz;

- 1) appointment by transfer of departmental candidates with the qualification of Divisional Accountant test conducted by KPSC
- 2) By promotion from Senior Assistant having 10 years of service with qualification of Account Test (Higher)
- 3) By direct recruitment through Kerala Public Service Commission.

The first and third sources are filled by direct recruitment through PSC and the 2nd source is filled by calling option/willingness from eligible candidates. A list of 105 candidates was prepared on 18.10.2003. While the process was going on, the Board vide B.O (FM) No 133/2006(Estt II 1610/1999) dated 16.01.2006 stipulated that only Senior Assistants having 10 years of service with the qualification of Account Test (Higher) be promoted to the post of Divisional Accountant and to prepare a fresh list of willing Senior Assistant for considering their promotion to that cadre. Accordingly, a fresh seniority list of Senior Assistant was prepared during 2006. Since the petitioners and the candidates in the combined seniority list prepared on 18.10.2003 were promoted as Senior Superintendent, they were excluded from the newly prepared list. The petitioners and some candidates in the list dated 18.10.2003 approached the Hon'ble High Court of Kerala by filing WP (C) 5629/06 to quash the Board Order dated 16.01.2006 and also to consider them for promotion in the cadre of Divisional Accountant. The Hon'ble High Court of Kerala in its judgment dated 04.07.2007 in WP (C) No 5629/06 and connected cases observed that the petitioners who were confirmed to the post of Senior Assistant continue to retain their lien in that post notwithstanding their provisional promotion to the post of Senior Superintendent and hence they are entitled to be considered for promotion to the post of Divisional Accountant in the light of their ranking in the seniority list prepared on 18/10/2003. The Hon'ble High Court of Kerala also quashed the B.O dated 16.01.2006 and all further proceedings taken pursuant to it and directed the KSE Board to consider the claim of the petitioners for promotion to the post of Divisional Accountant in the light of their ranking in the approved option list

prepared on 18.10.2003. In compliance of the judgement directives, 31 candidates including the petitioners who were in the service of the Board were appointed by promotion as Divisional Accountant vide order EB3(a)/2222/DA/OP/07 dated 07.04.2008 in the vacancies earmarked for appointment by promotion.

Regarding the claim for back effect of promotion with effect from 01.08.2004, it is noted that the sanctioned strength of Divisional Accountant is fixed as 92. Out of the total sanctioned strength of Divisional Accountant, 31 places were earmarked for appointment by promotion. The petitioners were appointed by promotion to the cadre of Divisional Accountant in pursuance of judgement dated 4th July 2007 of the Hon'ble High Court in WP (C) 5629/2006 and connected cases. It is pertinent to note that Hon'ble High Court in the judgement has ordered to consider the claim of the petitioners for promotion to the post of Divisional Accountant in the light of their ranking in the approved list dated 18.10.2003. There were 105 candidates in the option list prepared on 18.10.2003. The petitioners position in the option list prepared on 18.10.2003 is 76 & 81 respectively. Since the seniors in the option list had already retired from service at the time of issuance of order dated 07.04.2008 the juniors including the petitioner in the list were appointed by promotion to the 31 vacancies set apart for appointment by promotion. Therefore the claim of the petitioner for back effect of promotion with effect from 01.08.2004 is immaterial and hence cannot be considered.

Regarding the second contention of the petitioner to prepare the seniority list of Divisional Accountant by maintaining the ratio 1:1 between promotees and direct recruitees, it is noted that the petitioners belong to the quota earmarked by promotion (2nd source). They were promoted to the cadre of Divisional Accountant on 07.04.2008. The PSC recruitees (3rd source) were appointed as Divisional Accountant as per the advice of the KPSC dated 02.08.2004. The direct recruitees advised by the PSC vide order dated 02.08.2004 were given seniority based on the effective date of advice (Rule 27(c) of K.S.&SSR) and the promotees including the petitioners were given seniority based on the date of order of promotion (Rule 27 (a) of K.S.&SSR) in the provisional gradation list of Divisional Accountant. There is no provision in KS&SSR and in the Special Rules to prepare seniority list by applying the ratio 1:1 disregarding the date of advice/date of appointment by promotion. In the absence of any provision in the statutory rules, the request of the petitioners to prepare a seniority list by applying the alternate ratio 1:1 cannot be considered and hence declined.

The petitioners have not pointed out any anomaly in the provisional seniority list of Divisional Accountant (Exht P8) published in conformity with the relevant provisions in KS&SSR. Therefore the provisional seniority list of Divisional Accountant is hereby finalized and published in the website of KSE Board. The guidelines observed for the preparation of seniority list is also appended to this order.

This order is issued in compliance of the judgement dated 29.11.2011 in WP(C) 31739/2011 of the Hon'ble High Court of Kerala.

Sd/-

CHIEF ENGINEER (HRM)

To

1. Smt Geetha.V,
Assistant Finance Officer,
Generation Circle, Kothamangalam.
2. Shri K.Sasidharan.
Assistant Finance Officer (Rtd.)
Residing at Leebas, Chembra Road,
Perambra, Kozhikode District.
(Annexure seniority list may be obtained from the official website of KSE Board)

Copy to:

1. The Secretary, KSE Board
2. The Personnel Officer KSE Board
3. All Chief Engineers/All Deputy Chief Engineer/All Executive Engineers
4. The Joint Secretary (Law), KSE Board
5. The Legal Liaison Officer, Standing Counsel for KSE Board, Ernakulam
6. The Financial Advisor, KSE Board.
7. The Director (I.T), KSE Board.
8. Stock file.

Guidelines observed for the preparation of Seniority list of Divisional Accountant in K.S.E Board.

1. Seniority of Divisional Accountant recruited through KPSC (General)/ appointed by transfer shall be determined by the effective date of advice of the KPSC.
2. Seniority of those promoted as Divisional Accountant is determined from the date of order of their promotion
3. Seniority of those granted extension of time to join duty beyond three months from the date of appointment order shall be determined by the date of their joining duty.
4. Seniority of those who availed LWA for employment abroad prior to declaration of probation shall be determined with respect to their date of rejoining duty.
5. The date of advice of the PSC recruitees/date of advice of the candidates appointed by transfer and date of order of the promotees happens to be on the same date, their relative seniority will be determined in the ratio 1:1:1 between appointment by transfer, appointment by promotion and direct recruitment through KPSC.

Sd/-

CHIEF ENGINEER (HRM)