



PROCEEDINGS OF THE CHIEF ENGINEER (HRM) KSEBL,
THIRUVANANTHAPURAM

Sub: - Establishment –Order dated 02.11.2017 of the Hon'ble Division Bench of the High Court of Kerala in CCC NO.296/2016 -Promotion to the Cadre of Sub Engineers (Ele) under 20% quota earmarked for the promotion of Overseers (Ele) –Compliance of Judgments Orders issued.

No.EB2/SE (Ele.)/CCC 296/Promotion /2017

Dated, Tvpm. 16.11.2017

- Read: - :-1. Judgment dated 30.07.2015 of the Hon'ble High Court in WA No's 1004, 1094, 1100/2014 and 572/2015
2. Order dated 2.11.2017 of the Hon'ble Division Bench of the Hon'ble High Court of Kerala in Contempt Case (C) No,296/2016 (S).
 3. B.O. No,ARR/111/36591/78 dated 23.01.1981.
 4. B.O. (FTD) No.834/2017 (Estt.II/2089/2017) dated 30.03.2017
 5. This Office Order No, EB2/SE(Ele)/Promotion/2017 dated 31.03.2017
 6. No.EB2/SE(E)/Promotion-correction/2017 dated 3.04.2017
 7. This Office Order No.EB2/SE(Ele.)/CCC296/17/Cancellation dated, Tvpm 07.11.2017

ORDER

As per proceedings No.EB2/SE(Ele)/Ovr-Pro/10%/2011 dated 09.02.2011 of the Chief Engineer (HRM), 35 Overseers (Ele), who possessed Trade Certificate in Electrician/ Wiremen [Private study], were promoted to the cadre of Sub Engineer (Ele) under 10% quota earmarked for promotion of Overseer(Ele) to Sub Engineer(Ele).

Certain Overseers (Electrical) working in KSEBL had filed Writ Petition No.29243/2011 before the Hon'ble High Court of Kerala against this promotion order with an argument that the promoted Overseers do not possess the qualification prescribed in the B.O dated 23.01.1981. The Hon'ble High Court delivered the judgment dated 22.05.2014 wherein the KSEBL was directed to take a decision regarding qualification of Overseers for promotion to the cadre of Sub Engineer after quashing the representations submitted by the petitioners challenging the promotion order dated 09.02.2011 without interfering in the promotion order.

The petitioners filed Writ Appeal No's 1004, 1094, 1100/2014 and 572/2015 against the judgment dated 22.05.2014 in WPC No.29243/2011. The Hon'ble High Court in its judgment dated 30.07.2015, quashed the promotion of 35 Overseers ordered as per

proceeding no.EB2/SE(Ele)/Ovr-Pro/10%/2011 dated 09.02.2011 and directed the Board to effect the promotion on the basis of a list prepared in terms of the qualification, as prescribed in the B.O dated 23.01.1981.

Against this the Sub Engineers(Electrical), whose promotion order had been quashed by the above judgment filed Review Petition No's,1009,1106,1115, 1122,1198,1170,1179, 1180/ 2015 and 72/2016 before the Hon'ble High Court of Kerala .

The Hon'ble High Court in its judgment dated 28.01.2016 dismissed all the review petitions as the court did not find any ground, which warrants review of the judgment dated 30.07.2015. The Court also observed that if any changes are to be made to B.O dated 23.01.1981; it is for the KSEBL to take a decision. The Court also observed that the judgment shall not preclude the KSEBL to take an appropriate decision in future.

Since the review petitions were dismissed by the court, KSEBL decided to comply with the judgment dated 30.07.2015 vide B.O No.B.O.D(F) No.781/2016 dated 5/3/2016, and directed the Chief Engineer (HRM) to take further necessary action for the compliance of the judgment. Accordingly, the Sub Engineers (Electrical) [35 numbers] who were promoted as per order NoEB2/SE (Ele)/Ovr-Pro/10%/2011 dated 09.02.2011 were reverted and applications were called for from the eligible Overseers (Electrical) qualified as per B.O dated 23.01.1981 vide notification dated 17.03.2016 for effecting the promotion to the vacancies occurred due to the reversion of 35 numbers of Sub Engineers (Electrical).

Against the reversion, the aggrieved Sub Engineers (Electrical) filed Writ Petition No's 13308/2016 before the Hon'ble High Court of Kerala and the Hon'ble Court stayed this Order. Since the period of stay expired by end of November 2016, 35 Sub Engineers (Electrical) were reverted as per Proceedings No.EB2/SE (E)/WA 1094/2014 dated 29.11.2016 of the Chief Engineer (HRM).

Subsequently 35 numbers of qualified Overseers (Electrical) were promoted as per order no's EB2/SE(E)/WA 1094/2014 dated 31.03.2017 and EB2/SE(E)/WA1094/2014 dated Tvpm 18.04.2017 from the seniority list dated 17.03.2016 prepared in terms of the qualifications, as prescribed in B.O dated 23.01.1981

The contentious issue in this regard is the qualification prescribed in the B.O dated 23.01.1981 [Certificate obtained after having passed an examination conducted by the competent authority in the Trade of Lineman/Wireman/Electrician after 18 months course in ITI and six months in-plant training]. Though this course of study was stopped since 1969 and the course period was changed to 24 months by DGE&T, necessary changes had not been incorporated in the above B O. Since the 18 months course in ITI and six months in- plant training has been prescribed as the qualification for various posts, KPSC requested the Government of Kerala to issue a clarification in the matter. Government of Kerala examined the matter and ordered that the 18 months course in ITI and 6 months in- plant training is equivalent to the 24 months course in the respective trade as per G.O No. 135/2014/Labour, dated, Thiruvananthapuram 04.11.2014.

By considering the above mentioned facts, the B.O dated 23.01.1981 was modified with effect from 25.03.2017 vide Board Order dated 30.03.2017 as read (4) by incorporating the following changes in the technical qualifications prescribed for promotion from Overseer to Sub Engineer in 20% quota.

‘Certificate from National Council for Vocational Training (NCVT) (both Regular and Private) in Electrical, Wireman, Electronics with 5 years’ service in the feeder category or Diploma in Electrical/Electronics and Communication with 5 years’ service in the feeder Category’.

Subsequent to the issuance of the above modification, 107 Overseers (Ele) were promoted as Sub Engineer (Ele) as per Order read 5 & 6 under the 20% quota earmarked for the promotion of Overseer based on their qualifications and seniority in the gradation list.

Sri. P.Ajayakumar, Overseer (Ele) filed the subject contempt petition against this promotion Order. His contention is that the Judgment dated 30.07.2015 has not been complied with and unqualified Overseers has been promoted in violation of the direction contained in the Judgment. The Hon’ble Division Bench of the Hon’ble High Court of Kerala issued order to re-open the contempt proceedings which was closed earlier based on the submission regarding the compliance of judgment dated 30.07.2015 in WA 1004/2014 and connected cases , by reverting the 35 unqualified Sub Engineers(Ele) to the cadre of Overseer(Ele) and promoting same numbers of qualified Overseers(Ele) to the cadre of Sub Engineer (Ele). The Hon’ble High Court observed that the Board Order dated 30/03/2017 modifies the qualification for promotion provided in Board Order dated 23/01/1981 with effect from 25/03/2017 only. But the promotion order issued on 31/03/2017 against the vacancies existing prior to 25.03.2017 contains persons not having qualifications in accordance with Board Order dated 23.01.1981 and hence there is violation of the judgments of the Hon’ble Division Bench.

Considering the above circumstances and the order of the Hon’ble Division Bench of the High Court of Kerala dated 02.11.2017 in CCC No.296/2016, the promotion Order of Overseers (Ele) to the Cadre of Sub Engineer (Ele) under 20 % quota issued as per Order No read 5 & 6 were cancelled with retrospective effect from 31.03. 2017 vide Order read 7 above and decided to promote 107 Overseers(Ele), against the vacancies that arose prior to 25.03.2017 to the cadre of Sub Engineer (Ele) under 20% quota earmarked for the promotion of Overseer (Ele), based on the qualifications as prescribed in the B.O dated 23.01.1981.

In compliance of the Judgments dated 30/07/2015 in WA No.1004,1094,1100/2014 and WA No.572/2015, Order dated 7/9/2016 in WA No.1794/2016 and Order dated 02.11.2017 in CCC No.296/2016, a Circular was issued vide no. EB2/SE(Ele)/CCC296/2017 dated 08.11.2017 to redress the grievances/complaints if any regarding the seniority list of the qualified Overseers (Ele), based on the B.O dated 23.01.1981, published in the official website of KSEBL.

Based on the seniority list thus finalized the following promotion order is issued to the Overseers(Ele) to the cadre of Sub Engineer(Ele), under 20% quota earmarked for the promotion of Overseers(Ele) to the cadre of Sub Engineer (Ele), against the vacancies that arose prior to 25.03.2017 subject to the following conditions.

1. This promotion order takes retrospective effect from 31.03.2017.
2. The promotees are eligible for notional fixation of pay with retrospective effect from 31.03.2017. They are eligible for monetary benefit with effect from the date of reporting for duty to the cadre of Sub Engineer (Ele) except those persons promoted vide Sl No's 1 to 5. In their case, they are eligible for monetary benefit with effect from the date of their joining duty as Sub Engineer (Ele) as per the Order dated 31.03.2017 read as 5th paper, which was cancelled vide order read as 7th paper, since they are qualified as per the B.O dated 23.01.1981.
3. If any Overseer (Ele) qualified as per Board Order dated 23.01.1981 is found to be eligible for promotion as Sub Engineer (Ele) in future against the vacancies that arouse prior to 25.03.2017, they will be promoted as Sub Engineer (Ele). In that situation appropriate numbers of Sub Engineer(Ele) who are promoted as per this Order will be reverted as Overseer (Ele)
4. The promotions are ordered in the exigency of service and public interest,
5. The promotion may be effected only after verifying the employee code, Name, and Date of birth of promotees and also after ensuring that no adverse remarks is present in the Service Book of the promotees barring their promotion.
6. If any disciplinary action/Vigilance case is pending against the promotees, his promotion to the cadre of Sub Engineer (Ele) need not be effected and the fact may be intimated to this Office without fail.
7. The incumbency of the promotees noted in this Order is based on the information available in this Office and HRIS. Changes along with other discrepancies, if any, should be forwarded to this Office by the concerned Deputy Chief Engineers/ Executive Engineers.
8. The promotions are purely provisional under Rule 31 (a) (i) of KSSR 1958 as adopted by the Board without prejudice to the claims of seniors if any.
9. Provisions of KSR will govern the fixation of pay in respect of promotes.
10. Promotions to those who are on Leave without allowance as per Appendix XII A, B and C, Part I of KSR; under suspension should not be effected and the details of such cases may be intimated to this Office.
11. While effecting the promotion the SL.No. and Order No. must be noted in the Service Books.
12. The working strength of Sub Engineer (Ele), after effecting promotions should be intimated to this Office without fail.
13. The promotees shall be relieved forthwith. HRIS shall be updated before issuing the LPC.

14. The promotees shall compulsorily attend the induction / orientation training programme for new Sub Engineers' as and when intimated by the Training Centre.



CHIEF ENGINEER (HRM)

Copy to:

1. The Secretary (Administration), KSE Board Ltd, Thiruvananthapuram.
2. The T.A to the Chairman & Managing Director, KSEBL, Thiruvananthapuram
3. The PA to the Director (Finance) KSE Board Ltd, Thiruvananthapuram.
4. The TA to the Director (Gen-Civil &HRM) KSE Board Ltd, Thiruvananthapuram
5. The TA to the Director (SCM, Plg & Gen (Ele)KSE Board Ltd, Thiruvananthapuram
6. The TA to the Director (Distribution & IT) KSE Board Ltd, Thiruvananthapuram
7. The TA to the Director (T &SO) KSE Board Ltd, Thiruvananthapuram
8. The LA & DEO, KSE Board Ltd, Thiruvananthapuram.
9. The Chief Vigilance Officer, KSE Board Ltd, Thiruvananthapuram.
10. The FA/CIA, KSE Board Ltd, Thiruvananthapuram.
11. The Regional Personnel Officer, KSE Board Ltd, Thiruvananthapuram.
12. The Chief Public Relation Officer, KSEBL, Thiruvananthapuram
13. All the Chief Engineers concerned.
14. All the Deputy Chief Engineers concerned.
15. All the Executive Engineers concerned
16. The Senior Superintendent, Gradation/Estt/ Bill Sections.
17. Notice Board.
18. Stock file.