

HIMACHAL PRADESH
PUBLIC WORKS DEPARTMENT

MEMORANDUM

Whereas, Sh. Rakesh Kumar Sharma & others filed CWP No.606/2023 before the Hon'ble High Court of HP against the provisional Seniority list of Junior Engineer(Electrical) circulated on 21.01.2023 as it stood on 31.12.2022. The writ petition was lastly listed before the Hon'ble High Court on 22.02.2023 wherein following judgment has been passed:-

- " Fresh instructions have been placed on record. According to which representations submitted by the petitioners were received in the o/o Engineer-in-Chief, HPPWD Shimla-2, on 21st February, 2023 as these were submitted by the petitioners through proper channel.*
- 2. The main grievance of the petitioners is that respondents No.1 to 3 are in the process of holding a DPC for promotion to the posts of Assistant Engineers. According to petitioners, such exercise will prejudice their rights as their representations have remained undecided.*
- 3. Keeping in view the nature of the controversy, the interest of justice will be served by directing respondent No.2 to decide the representations of petitioners strictly in accordance with law within one week from today. Ordered accordingly.*
- 4. In order to maintain equity, respondents No.1 to 3 shall not hold fresh DPC for promotion to the posts of Assistant Engineers till the decision on the representations of the petitioners.*
- 5. Needless to say that the petitioners shall always be at liberty to assail the decision taken on their representations, in case it goes against them. Petition is accordingly disposed of, so also, the pending applications, if any.*

And whereas, pursuant to the direction passed by the Hon'ble High Court, the representation of co-petitioner Sh.Rajesh Kumar, JE dated 3.02.2023 received in o/o undersigned on 21.02.2023 has been perused. In this representation the co-petitioner Sh. Rajesh Kumar in CWP No.606/2023 has made the claim to the following extent:-

" In this behalf, I would like to draw your attention towards some facts, that as per seniority list prepared by the Head of the department my no appears at Sr.No.18 respectively, which seems to be impracticable, that Sr.No.18 was appointed during 2010 as Junior Engineer on Contract basis. The person appearing from Sr.No.2 to 14 were working as technician / Work Inspector/ Surveyor upto 11.02.2016 and consequently promoted as Junior Engineer w.e.f. 12.02.2016. That Sr.No.2 to 14 were working under us and now they appear at above us in the Provisional Seniority list as prepared, which seems to be injustice on our part. As they were working under us as technician / Work Inspector/ Surveyor. But, now they all (Sr.No.2 to 14) are senior to us as reflected in the seniority list.

It is therefore, sympathetically prayed that out services may kindly be considered from date of appointment into Govt.service, so that the Senior and Junior scenario shall be maintained. Also, out case for correction in seniority list as prepared may be

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forwarded to the higher authority and promotion benefits shall be attained will be before junior please."

And whereas, with regard to above claim of applicant, the record has been perused and it has been noticed that in fact, in HPPWD, after the appointment / promotion of petitioners/ private respondents, the final seniority list of Junior Engineer(Elect.) was circulated vide letter No.PWE-79-Seniority List of JE (Elect.)/ESIII-19776-19926 dated 2.03.2017 as it stood on 29.02.2016 and in this seniority list private respondents are appearing at Sen.No.52 to 64. The petitioners even not appear in this seniority list as at that time they were working on contract basis and were yet to be born on regular cadre. They have never challenged this final seniority list. After this, the provisional seniority list of Junior Engineer(Elect.) was circulated in HPPWD vide letter No.PWE-126-79-Seniority List (JE Elect.)/ESIII-2446-54 dated 15.07.2020 which was further finalized vide letter of even file No.5534-42 dated 23.09.2020. In this seniority list, the private respondents appeared at Sen.No.35 to 48 and petitioners are appearing at Sen.No.53,54 & 59,60. Even, this seniority list has never been challenged by the petitioners. However, during 9.03.2021, some shortcomings were noticed in this final seniority list dated 23.09.20 and same was kept in abeyance and fresh provisional seniority list as it stood on 31.12.2020 was circulated vide letter No.PWE-126-JE(Elect.)/Seniority/ ESIII-11900-914 dated 9.03.2021. The same was finalized vide letter of even file No.8756-65 dated 17.02.2022 and in this seniority list private respondents are appearing at Sen.No.35 to 48, whereas petitioners are appearing at Sen.No.54,55 & 59,61. Even this final seniority list has never been challenged by the petitioners has become final.

Now, the department vide letter No.10643-10692 dated 21.01.2023 has circulated the fresh provisional seniority list as it stood on 31.12.2022 and this time the petitioners have challenged the same. The claim of the petitioner to place them above the private respondents in this seniority list is not maintainable as the same has thrice been finalized and they have never challenged the same. Moreover, they have been appointed on regular basis after the private respondents in the cadre of Junior Engineer(Elect.). The petitioners were regularized in May, 2016 and March, 2017 after the circulation of final seniority list.

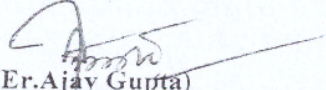
Further, the claim of the petitioner to count their seniority from the date when they were appointed on Contract basis is not legally sustainable as no such provision / instruction in this regard is applicable in the state. The seniority is to be counted from the date the official is born on regular cadre. They have rightly been placed in the seniority list on the date when they have been appointed in the department on regular basis.



In view of above detailed position and facts & circumstances, the representation of the petitioner as per direction passed by the Hon'ble High Court has been considered and being devoid of merit is hereby rejected.

May inform the parties accordingly.

Registered:-


(Er. Ajay Gupta)
Engineer-in-Chief
HPPWD., Shimla-2.

Sh. Rakesh Kumar Sharma,
S/o Shri Sharvan Ram Sharma,
Junior Engineer (Electrical) in HPPWD
Sub-Division Hamirpur, HPPWD.,
Electrical Division Una (H.P).

Shri Ingal Kishor, S/o Shri Parma Nand,
Junior Engineer (Electrical) Sub-Division
Hamirpur, HPPWD Electrical Division
Una (HP).

Shri. Rajesh Kumar S/o Sh. Puran Chand,
Junior Engineer, (Electrical) HPPWD Sub-
Division Dharamshala (Section-II), HPPWD
Electrical Division Palampur(HP).

Shri Rakesh Kumar Sharma,
S/o Shri Bal Krishan Sharma,
Junior Engineer (Electrical) Sub Division
Hamirpur, HPPWD Electrical Division
Una, District Una (HP).

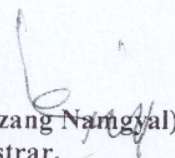
No.PWE-126-1-JE(Court Case)/ESI-11

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Dated:- 27.2.2023

• Copy is forwarded to the following:-

1. The Principal Secretary(PW) to the Govt. of HP Shimla-2.
2. All the Superintending Engineer(Elect.) in HPPWD.
3. The Ld. Dy. Distt. Attorney in this office.
4. All the Executive Engineers(Elect.) in HPPWD.
- ✓ 5. The Executive Engineer(IT) in this office.
- 6. Seniority file/ Guard file.


(Lobzang Namgyal)
Registrar,
HPPWD., Shimla-2.