



KERALA STATE ELECTRICITY BOARD LIMITED

Incorporated under the Companies Act, 1956)

Reg. Office: Vidyuthi Bhavanam, Pattom, Thiruvananthapuram – 695 004, Kerala

CIN : U40100KL2011SGC027424

Website: www.kseb.in

Phone: +91 471 2514456, 2514575, 2514504 Fax: 0471 2554039

E-mail: secretary@kseb.in

Abstract

Establishment –Seniority on promotion while continuing on deputation – Judgment dated 21.08.2020 in WP(C) No.15427/2012 of Hon'ble High Court of Kerala – Cancellation of Board Order dated 17.02.2012 & letter dated 07.06.2012 and reassessment of seniority - Approved – Orders issued.

CORPORATE OFFICE (ADMINISTRATION)

B.O. (DB) No.30/2021 (Estt.IV/3409/2014) Dated, Thiruvananthapuram, 16.01.2021.

- Read:-
- 1) B.O(CM) No.174/2006 (Estt.IV/6195/2006) dated 21.01.2006.
 - 2) Proceedings No.EB1/AE(E)-AEE(E)/Pro/Degree/2009 dated 08.12.2009 of the Chief Engineer (HRM)
 - 3) BO (FB) No.386/2012 [Estt IV/6195/2005] dated 17.02.2012.
 - 4) Letter No. Estt IV/6195/2005 dated 07.06.2012 of the Secretary, KSE Board Limited.
 - 5) Judgment dated 21.08.2020 in WP(C) No.15427/2012 of the Hon'ble High Court of Kerala.
 - 6) Note No.Estt IV/3409/2014 dated 24.11.2020 of the Chairman & Managing Director submitted to the Board of Directors
 - 7) Proceedings of the 56th meeting of the Board of Directors held on 01.01.2021 vide Agenda 17-12/2020

ORDER

Smt. Asha. V. Dev, Assistant Engineer (Electrical) was granted Leave without Allowance for 5 years for taking up employment within India for 5 years with effect from 29.10.2002. While on leave she was selected as Assistant Executive Engineer (Electrical) in Chattisgarh State Electricity Board on deputation for a period of one year with effect from 05.01.2006. After availing Leave without Allowance for 3 years she re-joined in KSE Board Service after cancelling the un-availed portion of leave for 2 years. Subsequently the Board accepted the order of deputation and she entered on deputation as per Board Order read as 1st above. The deputation period was further extended from time to time for 3 more years at her request. Smt. Asha. V. Dev, Assistant Engineer was promoted as Assistant Executive Engineer (Electrical) under the 75% Degree quota and was allowed to continue on deputation as the proceedings read as 2nd above. Subsequently the Chattisgarh Electricity Board was transformed into a new company by name Chattisgarh State Power Holding Co. Ltd.

Smt. Asha. V. Dev, Assistant Executive Engineer (Electrical) was allowed extension of deputation at regular intervals in the new organization also for 3 years. The General Manager (HR), Chattisgarh State Power Holding Co. Ltd. vide letter dated 16.12.2011 requested the KSE Board to inform whether the Board has any

objection in extending the period of deputation of Smt. Asha. V. Dev, Assistant Executive Engineer (Electrical), for two more years.

As per Rule 140 (b) of KSR Part-I no officer shall normally be allowed to remain on deputation to Foreign Service for more than 5 years continuously. It is also stipulated that provisions of Rule 24 will apply to an officer who continues in Foreign Service for more than 5 years at a time. As per Rule 144, no deputation allowance shall be granted for the period in excess of 5 years to an officer even if the deputation is allowed to continue beyond 5 years continuously.

Later the Chattisgarh State Electricity Board was bifurcated into 4 independent Companies as follows.

- (1) Chattisgarh State Power Distribution Company Ltd.
- (2) Chattisgarh State Power Transmission Company Ltd.
- (3) Chattisgarh State Power Generation Company Ltd.
- (4) Chattisgarh State Power Holding Company Ltd.

Smt. Asha. V. Dev, Assistant Executive Engineer (Electrical) is on deputation for the last 6 years (3 years in Chattisgarh Electricity Board and remaining 3 years in Chattisgarh Power Holding Co. Ltd). Instead of granting fresh deputation to the new Company, Smt. Asha. V. Dev, Assistant Executive Engineer (Electrical) was allowed to continue her deputation originally ordered to Chattisgarh State Electricity Board in the new Company named Chattisgarh State Power Holding Co. Ltd. also.

In view of the above, the request of granting NOC for extension of deputation for another two years was examined by the Full Board in the meeting held on 30.01.2012 and it was decided to extend, as a last chance, the period of deputation of Smt. Asha. V. Dev for a period up to 31.05.2012 as a special case subject to the condition that she will join as Junior most in the cadre of Assistant Executive Engineer (Electrical) on the date of joining duty in the Board. It was also decided that no further extension for deputation shall be granted under any circumstances. Accordingly the period of deputation was extended up to 31.05.2012 as per Board Order read as 3rd above.

Smt. Asha. V. Dev submitted a representation on 21.02.2012 and requested to reconsider the decision to post her as junior most in the cadre of Assistant Executive Engineer (Electrical). The above request was examined by the Board and decided to decline the request and informed her accordingly as per letter read as 4th above.

Aggrieved by the above Board decision Smt. Asha. V. Dev filed a petition before the Hon'ble High Court (WP (C) No. 15427/2012).

The Hon'ble Court in its order read as 5th above disposed the Writ Petition by setting aside the Board Order dated 17.02.2012 to the extent it imposed the condition that the petitioner had to rejoin as the junior most Assistant Executive Engineer and Order dated 07.06.2012 of the Secretary (Administration), rejecting the representation of the petitioner.

In the light of the above, a legal opinion in the matter was sought from the Legal Adviser & Disciplinary Enquiry Officer. The Legal Adviser & Disciplinary Enquiry Officer opined that the Deputation is governed under Rule 140 (a) Part-I KSR which does not provide for a provision that the deputation can be granted subject to loss of

seniority. The Hon'ble High Court of Kerala rightly pointed out the above Rule Position and allowed the Writ Petition in favour of the petitioner. Being the position chance for a successful writ appeal against the Judgment dated 21.08.2020 in WP (C) No.15427/2012 is very bleak.

Having considered the legal opinion, the Chairman & Managing Director directed to place the matter before the Board for cancellation of Board Order dated 17.02.2012 and letter dated 07.06.2012. Accordingly the matter was placed before the Board of Directors as per Note read as 6th above . Having considered the matter in detail, the Board of Directors in its meeting held on 01.01.2021,

(1) Resolved to comply with the judgment dated 21.08.2020 of the Hon'ble High Court of Kerala in WP(C) No.15427/2012 and to cancel the Board Order dated 17.02.2012 & letter dated 07.06.2012.

(2) Resolved further to reassess the seniority of Smt.Asha.V.Dev in the cadre of Assistant Executive Engineer (Electrical) and to include her in the promotion order No.EB1/AE(E)-AEE(E)/Pro/Degree/2009 dated 08.12.2009 of the Chief Engineer (HRM).

Orders are issued accordingly.

By Order of the Director Board,
Sd/-
LEKHA G.
COMPANY SECRETARY-IN CHARGE

To

1. Smt.Asha.V.Dev, Assistant Executive Engineer, Now on deputation as Deputy Secretary, Chattisgarh State, Electricity Regulatory Commission, Irrigation Colony, Shanthinagar, Raipur – 492001.
2. The Chief Engineer (HRM) for information and necessary action.

Copy to:-

- 1) The Financial Adviser/Chief Internal Auditor/Chief Engineer (IT)/ Chief Vigilance Officer.
- 2) The Deputy Chief Engineer, Electrical Circle Pathanamthitta/Executive Engineer, Electrical Division Pathanamthitta
- 3) The Accounts Officer (Pension Authorization).
- 4) The TA to Chairman & Managing Director/Director (D,IT&HRM)/ Director (Trans. & System Opn.)/Director (Gen.-Civil)/Director (Gen-Ele&SCM) Director (Planning,& Safety).
- 5) The PA to Director (Finance).
- 6) The Senior CA to Secretary (Administration).
- 7) Stock File.

Forwarded / By Order


Senior Superintendent