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HIMACHAL PRADESH STATE ELECTRICITY BOARD.

OFFICE MEMORANDUM

The Himachal Pradesh State Electricity Board is pleased to decide that the instructions as contained in H.P. Government letter No. PER(AP)-C-B(2)/95-Vol-II dated 30th June, 2001 relating to counting of temporary/adhoc service towards seniority alongwith O.M. No.1-9/73(Appt.-II) dated 7.10.1986, relating to principles for determining seniority of various categories of persons, will also be applicable in this Board in to to.

It has also been decided that "Public Service Commission", wherever incorporated in aforementioned letter and O.M. of HP Government, the "Board(Whole Time Members)," may be considered to have been substituted.

Chh
Secretary,
H.P. State Electricity Board,
Vidyut Bhawan, Shimla-171004.
11/01/2001

NO HPSEB(SECTT)/R.E/106-1/2001-78092-292, DATED:-4-10-2001.

Copy of above for information and necessary action forwarded to:-

1. All the Chief Engineers in HPSEB.
2. The Chief Accounts Officer, HPSEB., Shimla-4.
3. The Director(Personnel), NJPC., Himfed, Building Shimla-9.
4. The Additional Secretary-cum-PS to Chairman/
Additional Secretary (Law) in HPSEB.
5. All the Superintending Engineers/Director(Designs) in HPSEB.
6. All the Executive Engineers/Resident Engineers in HPSEB.
7. The Deputy Secretary/All Under Secretaries in the Board.
8. The ITO/POS/AFRO/LAOs in HPSEB.
9. All Special Pvt Secretaries/Sr. Pvt Secretaries to Chairman/Members/Secretary in Board's Sectt.
10. All the S.Os in Board's Secretariat.
11. Meeting Section of this office with reference to Agenda item No.278.03.
12. The Librarian of this office.

Chh
Secretary,
H.P. State Electricity Board,
Vidyut Bhawan, Shimla-171004.
11/01/2001

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A copy of H.P. Govt. letter No. PER (A) -C-D(2)/95-Vol. II dt. 30/6/01 from Commissioner-cum-Secretary (Pers.) to the Govt. of H.P. issued to All the Secretaries/Heads of Departments and other concerned in H.P.

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Subject:- Counting of temporary/adhoc service towards seniority Instructions regarding.

Sir,

I am directed to say that the matter regarding counting of temporary/adhoc service towards seniority has been engaging attention of the State Government for considerable long time. Keeping in view the law laid down by the Supreme Court in cases (i) Direct-Recruitment Class-II Engineering Officers Association Versus State of Maharashtra (AIR 1990 SC 1607), (ii) State of West Bengal Versus Aghore Lal Dey (1993) 3 SCC 371, (iii) Shri L Chander Kishore Singh Versus State of Manipur (AIR 1999 S.C. 3616) and (iv) Rudra Kumar Sain Versus Union of India (AIR 2000 SC 2808), the State Government after careful consideration has decided to issue following guidelines/principles for counting temporary/adhoc service rendered namely:-

1. (i) Where an incumbent is eligible to be promoted in accordance with relevant Recruitment and promotion Rules but initial promotion on adhoc/temporary basis is made against existing vacancy by not following the procedure laid down in relevant rules for adjudging suitability of promotee for the post and the promotee continued in the post uninterruptedly till regularisation of his promotion in accordance with the rules, in that event his subsequent regularisation after adjudging suitability shall relate back to the date of his initial promotion and entire adhoc/temporary service shall be counted towards seniority.
- (ii) Where initial promotion is not according to Recruitment and promotion Rules and made as a stop gap arrangement, officiation in such post can not be taken into account for considering seniority.
- (iii) Where Recruitment and promotion Rules provide that vacancies in a Grade are to be filled up by promotion and also by direct recruitment earmarking specific percentage of vacancies for promotees and direct recruits, then as per existing instructions and the law laid down by the Apex Court, the relative seniority of

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Promotees and direct recruits shall be determined according to rotation of vacancies between the promotees and direct recruits. This will be based on quota of vacancies reserved for them respectively in Recruitment and Promotion Rules provided the vacancies meant for direct recruits and promotees are filled up in the same recruitment/calender year. However, where direct recruits are appointed on regular basis in accordance with quota/percentage of vacancies reserved for them in their respective Recruitment and Promotion Rules, yet the percentage of vacancies meant for promotees in the rules are filled up on adhoc/temporary basis subject to deficiency in procedural requirements prescribed for adjudging suitability for promotion to the post and such promotee continued on the post till regularisation in accordance with rules. In such cases also subsequent regularisation shall relate back to the year of initial promotion and entire adhoc/temporary service shall be counted toward seniority provided such promotees were otherwise eligible in accordance with the rules at the time of initial temporary/adhoc promotion. However, the instructions issued by the Department of Personnel vide O.M. No.1-9/73-IP-(Apptt.II) dated 07-10-86 will continue to be applicable subject to above modifications.

(iv) In case of selection posts where principle of merit-cum-seniority is applicable, the seniority is determined on the basis of panel prepared at the time of making selection for promotion by Departmental Promotion Committee. Thus in the case of selection posts, a senior person though promoted on temporary/adhoc basis strictly according to seniority may be superseded by the junior at the time of regular promotion as per panel prepared by the Departmental Promotion Committee. Therefore, in the case of selection posts principles (i) and (iii) enunciated above will be applicable subject to following conditions, namely:-

(1) Where senior person is initially promoted on temporary/adhoc basis

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strictly according to seniority but subsequently on regularisation he is superseded by his junior falling in the zone of consideration and assigned seniority above his senior in accordance with the panel prepared by the Departmental Promotion Committee for selection posts, then temporary/adhoc service of such senior shall not be counted toward seniority where the junior who superseded the senior was not promoted initially on temporary/adhoc basis.

- (ii) Where senior as well as junior were initially promoted on temporary/adhoc basis on different dates and on regularisation senior is superseded by the junior then temporary/adhoc service rendered by senior shall be restricted to date of temporary/adhoc service of such junior for the purpose of counting towards seniority in order to maintain the seniority position of junior over the senior as per panel prepared by the Departmental promotion Committee for selection posts.
- (iii) Where on regularisation panel is prepared by the Departmental promotion Committee for promotion in selection post strictly according to seniority then entire period of temporary/adhoc service shall be counted towards seniority.
- (iv) In the case of non selection post also, if for administrative reasons a junior is promoted on temporary/adhoc basis ignoring the claim of his senior then on regular promotion, the period of temporary/adhoc service rendered by the junior shall not be counted towards seniority.

(v)

Generally, it has been observed that where, seniority is under dispute/ challenge, initial promotions are made on temporary/adhoc basis as per disputed seniority if the incumbents are otherwise eligible in accordance with Recruitment and Promotion Rules and such temporary/adhoc promotions are made to continue till

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finalisation of seniority. On the finalisation of seniority if the seniority of any incumbent who was earlier promoted on adhoc/temporary basis is depressed then on regularisation earlier temporary/adhoc service rendered by such incumbent shall be counted towards seniority only to the extent he is found eligible for temporary/adhoc promotion prior to regularisation in accordance with depressed seniority. If on the basis of depressed seniority, he is found in-eligible for temporary/adhoc promotion prior to the date of subsequent regular promotion, then the entire service rendered by him on temporary/adhoc basis shall not be counted towards seniority.

2. It has been noticed that generally where vacancies in a grade are to be filled up by promotion and also by direct recruitment as per percentage of quota fixed in the rules timely action is not initiated to complete the process of selection/promotion which adversely affect the seniority between the direct and promoted statutorily conferred by the rules. It has been decided that such tendency shall be dispensed with because selection/promotion of any of the category after an inordinate delay given an opportunity to either categories to achieve seniority over the other category. It is, therefore, directed that process of selection/promotion in the case of promotee and direct recruits may be finalised before the occurrence of vacancies so that the posts in accordance with the rota quota are filled up and seniority is determined as per rules. Moreover, where temporary/adhoc promotions are resorted due to administrative exigencies of service, the procedure meant for regular promotion as per rules/quota will be followed and the process for regular promotion shall be completed at the earliest and temporary/adhoc/officiating promotions beyond the period of six months will be made only with the approval of H.P. Public Service Commission.

3. These instructions shall come into force with immediate effect, therefore, seniorities already finalised on the date of issue of these instructions shall not be re-opened. However, representation, if any, for counting of adhoc service towards seniority pending on the date of issue of these instructions shall be decided in accordance with these instructions.

4. You are, therefore, requested that above instructions be adhered to strictly.

5. Kindly acknowledge the receipt of above instructions.

Sd/- Commr.-cum-Secretary(Pers.)
to the Govt. of H.P.

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A copy of H.P. Govt. Deptt. of Personnel O.M. No. 1-9/73 (Apptt-II) dated 7.11.1965 addressed to all Secretaries to the Govt. of H.P. & Heads of Departments.

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Subject:- General Principles for determining the seniority of various categories of persons employed under H.P. Government.

The undersigned is directed to send herewith a copy of Govt. of India, Ministry of Personnel, Public Grievances & Pensions, Department of Personnel and Training O.M. No. 35014/2/80 Estt(D), dated 7th February, 1986 on the above subject whereunder the Govt. of India have revised the procedure regarding determining the Relative seniority of Direct Recruits and Promotees as contained in Paragraph-6 and explanatory memorandum of the Annexure to Ministry of Home Affairs O.M. No. 9/11/55-P.S., dated 22nd December, 1959 as last circulated with this Department's O.M. No. 1-9/73 (Apptt.-II), dated 28.9.1973. The revised instructions are aimed at removing the anomalies/problems in the determining of seniority of direct recruits and promotees by following the practice of keeping vacant slots as per quotas prescribed under the respective Recruitment and Promotion Rules.

2. The revised instructions of the Govt. of India as contained in the enclosed O.M. referred to above will be applicable to the employees of this State with effect from the date of issue of this office Memorandum.

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Copy of letter No. 35014/2/80-Estt.(D), dated 7.2.1986 from the Govt. of India, Ministry of Personnel, Public Grievances & Pensions New Delhi, addressed to the All Ministries/Departments of the Govt. of India, and copy endorsed to others.

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Subject:- General Principles for determining the seniority of various categories of persons employed in Central Services.

As the Ministry of Finance etc., are aware, the General Principles for determination of seniority in the Central Services are contained in the Annexure to Ministry of Home Affairs O.M. No. 9/11/55-P.S. dated 22nd December, 1959. According to paragraph-6 of the said Annexure, the relative seniority of direct recruits and promotees shall be determined according to rotation of vacancies between the direct recruits and the promotees, which will be based on the quota of vacancies reserved for direct recruitment and promotion respectively in the Recruitment Rules. In the Explanatory Memorandum of these principles, it has been stated that roster is required to be maintained based on the reservation of vacancies for direct recruitment and promotion in the Recruitment Rules. Thus where appointment to a grade is

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to be made 50% by direct recruitment and 50% by promotion from a lower grade, the inter-se seniority of direct recruits and promotees is determined on 1:1 basis.

2. While the above mentioned principle was working satisfactorily in cases where direct recruitment and promotion kept pace with each other and recruitment could also be made to the full extent of the quotas as prescribed, in cases where there was delay in direct recruitment or promotion, or where enough number of direct recruits or promotees did not become available there was difficulty in determining seniority. In such cases, the practice followed at present is that the slots meant for direct recruits or promotees which could not be filled up, were left vacant, and when direct recruits or promotees become available through later examinations or selections, such persons occupied the vacant slots, thereby became senior to persons who were already working in the grade on regular basis. In some cases, where there was short-fall in direct recruitment in two or more consecutive years, this resulted in direct recruits of later years taking seniority over some of the promotees with fairly long years of regular service already to their credit. This matter had also come up for consideration in various Court cases both before the High Court and Supreme Court and in several cases the relevant judgement had brought out the inappropriateness of direct recruits of later years becoming senior to promotees with long years of service.

3. This matter, which was also discussed in the National Council has been engaging the attention of the Government for quite some time and it has been decided that in future, while the principle of rotation of quotas will still be followed for determining the inter-se seniority of direct recruits and promotees, the present practice of keeping vacant slots for being filled up by direct recruits of later years, thereby giving them unintended seniority over promotees who are already in position would be dispensed with. Thus, if adequate number of direct recruits do not become available in any particular year, rotation of quotas for purpose of determining seniority would take place only to the extent of the available direct recruits and the promotees. In other words, to the extent direct recruits are not available, the promotees will be bunched together at the bottom of the seniority list, below the last position upto which it is possible to determine seniority, on the basis of rotation of quotas with reference to the actual number of direct recruits who become available. The unfilled direct recruitment quota vacancies would, however, be carried forward and added to the corresponding direct recruitment

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vacancies of the next year (and to subsequent years where necessary) for taking action for direct recruitment for the total number according to the usual practice. Thereafter, in that year while seniority will be determined between direct recruits and promotees, to the extent of number of vacancies for direct recruits and promotees as determined according to the quota for that year, the additional direct recruits selected against the carried forward vacancies of the previous year would be placed en-block below the last promotees (or direct recruits as the case may be) in the seniority list based on the rotation of vacancies for that year. The same principle holds good in determining seniority in the event of carry forward, if any, of direct recruitment or promotion quota vacancies (as the case may be) in the subsequent years.

Illustration

Where the Recruitment Rules provide 50% of the vacancies in a grade to be filled by promotion and the remaining 50% by direct recruitment, and assuming there are 10 vacancies in the grade arising in each of the years 1986 and 1987 and that 2 vacancies intended for direct recruitment, remained unfilled during 1986 and they would be filled during 1987, the seniority position of the promotees and direct recruits of these two years will be as under:-

<u>1986</u>	<u>1987</u>
1. P1	9. P1
2. D1	10. D1
3. P2	11. P2
4. D2	12. D2
5. P3	13. P3
6. D3	14. D3
7. P4	15. P4
8. P5	16. D1
	17. P5
	18. D5
	19. D6
	20. D7

4. In order to help the appointing authorities in determining the number of vacancies to be filled during a year under each of the methods of recruitment prescribed, a vacancy Register giving a running account of the vacancies arising and being filled from year to year may be maintained in the proforma enclosed.

5. With a view to curbing any tendency of under reporting, suppressing the vacancies to be notified to the

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concerned authorities for direct recruitment, it is clarified that promotees will be treated as regular only to the extent to which direct recruitment vacancies are reported to the recruiting authorities on the basis of the quotas prescribed in the relevant recruitment rules. Excess promotees, if any, exceeding the share falling to the promotion quota based on the corresponding figure notified for direct recruitment would be treated only as adhoc promotees.

6. The General Principles of seniority issued on 22nd December, 1959 referred to above, may be deemed to have been modified to that extent.

7. These orders shall take effect from 1st March, 1986. Seniority already determined in accordance with the existing principles on the date of issue of these orders will not be reopened. In respect of vacancies for which recruitment action has already been taken, on the date of issue of these orders either by way of direct recruitment or promotion, seniority will continue to be determined in accordance with the principles in force prior to the issue of this O.M.

8. Ministry of Finance etc. are requested to bring these instructions to the notice of all Attached/Subordinate Offices under them to whom the General Principles of Seniority contained in O.M. dated 22.12.1959 are applicable within 2 weeks as these orders will be effective from the next month.

VACANCY REGISTER

1. Total number of vacancies arising during the year 1986, 1987 1988 etc.
2. By Direct Recruitment
 - (i) No. of vacancies to be filled.
 - (a) Vacancies of the year (as per quota prescribed).
 - (b) Vacancies of the previous year(s) (brought forward).
 - (c) Total.
 - (ii) No. of vacancies actually filled.
 - (iii) No. of vacancies carried forward.
3. By promotion
 - (i) No. of vacancies to be filled.
 - (a) vacancies of the year (as per quota prescribed).
 - (b) vacancies of previous year(s) brought forward.
 - (c) Total:
 - (ii) No. of vacancies actually filled.
 - (iii) No. of vacancies carried forward.

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Note 1 The methods of recruitment mentioned above are only illustrative, those prescribed in the relevant recruitment rules will be reflected in this Register.

Note 2. In the cadres in which the yearly vacancies are sufficient in number to be amenable for division as per the prescribed quotas, it is considered that maintenance of this Register alone will be adequate. In smaller cadres, however, where the number of vacancies arising is somewhat occasional and one or two in a year, the appointing authorities may have to maintain the recruitment roster as at present, to be clear about the method under which a particular vacancy has to be filled.

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