

# HIMACHAL PRADESH STATE ELECTRICITY BOARD LIMITED

(A State Govt. Undertaking)

## ORDER

WHEREAS with the approval of the H.P.Govt., 14 posts of AAO, were filled up on contract basis during July, 2009 and May, 2010 in view of select panel received in two spells from Special Secretary (Power) to the Govt. of H.P. vide letter dated 23.5.2009 and letter dated 30.03.2010, as per selection as under:-

Sr. No	Name and Address of the Candidate	Category
<b>A</b> <u>Appointed during July, 2009</u>		
1.	Sh. Kapil Kumar S/O Shri Bishan Singh Village and Post Office Mandhol, Tehsil Jubbal District Shimla-171215	General
2.	Sh. Pawan Kumar S/O Shri Om Parkash Village Nalwar, PO Fagoti, Tehsil Barsar District Hamirpur-176039	General (Resigned)
3.	Sh. Arjun Singh S/O Shri Sohan Singh C/O Vyas Avenue, Phase-III, Part II, Kangna Dhar, New Shimla-171009.	General
4.	Ms. Jasmine Kaushal D/O Shri Jagmohan Singh V&PO Jalari, Tehsil Nadaun, District, Hamirpur-HP-177042	General
5.	Sh. Gagan Deep S/O Shri Inder Jeet C/O M/S Nanak Chand & Sons Shop No-16 Seri Bazar Mandi (HP)-175001	General (Resigned)
6.	Sh.Pawan Kumar Sharma S/O Shri Bishambhar Dass VPO Nara Tehsil Barsar District Hamirpur (H.P.)-174309	General (Services terminated)
7.	Sh. Naveen Chand S/O Shri Partap Chand H.No 7/168, Geeta Bhawan Road, Vikas Nagar Dehradun-248198	General
8.	Sh.Kamal Jeet Singh S/O Shri Amin Chand Room No. 18-E NBH-III, Block No.-III Summer Hill Shimla (HP)-171005	General
9.	Sh.Mohinder Singh Chauhan S/O Shri Uday Ram Chauhan, Room No- 25-E New Boys Hostel-II, H.P.University, Shimla (H..P.)-171005	General
10	Sh. Ram Krishan S/O Shri Baldev Singh Village Kandayana P.O. Berthin Tehsil Jhandutta District Bilaspur-174029	OBC
11.	Vipin Kumar Kaushal S/O Shri Bir Singh, Block No. C-5/29, Upper Phagli Shimla -171004	SC
<b>B</b> <u>Appointed during May, 2010</u>		
1.	Shri Jodh Singh S/O Shri Khem Chand C/O BMO, Civil Hospital, Karsog, Mandi.	Visually impaired
2.	Shri Yuv Raj , S/O Shri Deva Chand Vill. Matiana, P.O. Bandrole Teh. Kullu, Distt. Kullu (HP).	Scheduled Tribe.
3.	Shri Inder Singh Verma S/O Late Shri Ram Rattan, Vill. Nagog P.O. Dhari Via Shoghi, Distt. Shimla (H.P)	Genl. Ex-Serviceman

AND WHEREAS the services of the officer appearing at Sr.No.6 namely Shri Pawan Kumar Sharma, AAO (Contract) posted in F&A Wing, Shimla were terminated w.e.f. 16.10.2009 vide this office orders dated 3.7.2010. 2 other AAOs appointed on contract basis namely Shri Pawan Kumar posted in (OP) Circle, Dalhousie and Sh.Gagan Deep posted in (Op) Circle Mandi tendered their resignation from the services of the Board and relinquished the charge of the post on 9.6.2010 and 22.7.2010 respectively. However, Sh. Gagan Deep has been re-engaged as AAO on Contract basis on the same terms and conditions with the condition that he shall not be entitled for counting of his earlier one year contract

period and the intervening period falling between the termination of his first agreement and fresh re-engagement, for any type of regularization of his services. Sh.Gagan Deep vide letter dated 17.12.2010 requested for counting one year previous service rendered during 2009-10, which was considered/examined by the competent authority and it was decided that he will be placed last in the batch of July, 2009 of contract appointee AAOs.

AND WHEREAS Shri Arjun Singh and others (contract appointee AAOs) had filed a CWP No.1553 of 2013 in the Hon'ble H.P.High Court, Shimla seeking thereby following reliefs:-

- (a) That this Hon'ble Court may kindly be pleased to issue a writ of mandamus directing the respondent Board to regularize the services of the petitioners as Assistant Account Officer with all consequential benefits from the date of their appointment or at least from the date of their completing two years of service on contract basis as Assistant Account Officer including seniority on the same analogy on which the Respondent Board has regularized the services Assistant Engineers appointed on contract basis like the petitioners.
- (b) That this Hon'ble Court may kindly be pleased to direct the respondents to produce before this Hon'ble Court, relevant records of the case and to pay to petitioner the cost of the case.
- (c) Any other relief which this Hon'ble Court deems fit in the facts and circumstances of the case may kindly be granted in favour of the petitioner, in the interest of justice.

AND WHEREAS the CWP aforesaid was dismissed by the Hon'ble High Court of H.P., vide its orders/judgement dated 27.6.2013.

AND WHEREAS the petitioners-Shri Arjun Singh and others, aggrieved against the orders and judgement dated 27.6.2013 passed by the Hon'ble High Court of HP at Shimla filed SLP No.32707 of 2013 in the Hon'ble Supreme Court of India. The said SLP came up for hearing on 13.1.2015 when Hon'ble Apex Court has been pleased to allow the SLP and to convert the same as Civil Appeal No.390 of 2015, the operative part whereof is re-produced as under:-

13. We have considered the rival contention, perused the record and the Regulations framed by the Government.
14. From the facts as noticed above, we find that the Electricity Board was in need of regular Assistant Accounts Officers Class-I and there being 14 posts vacant, they made requisition to fill up all the 14 posts on regular basis. Respondents have failed to disclose the circumstances in which the advertisement was published by the Public Service Commission, the scale of pay was shown @ 50% of the regular pay and the nature of appointment on contract basis.
15. In fact in the said advertisement for the post of Assistant Accounts Officer Class-I, the posts reserved for different categories were shown i.e. Gen.-09, SC-01, ST-01, OBC-01, Ex-Servicemen Gen.-1, Disabled person (Low Vision) -01 (Total -14 posts). Thus, we find even the rule of reservation was also followed:-
16. The action on the part of the respondents / State authorities including the Public Service Commission prescribing 50% of the Regular pay of Rs.7750-DP on contract basis initially for one year, extendable on year to year basis is against the requisition and the decision taken by Electricity Board. Such action on the part of the authorities not only amounts to unfair employment practice but also arbitrary and violative of Article 14 of the Constitution of India.

17. It is clear that the terms of conditions of payment at the rate of 50% of regular pay and nature of appointment on contract basis was inserted in the advertisement by the State authorities and the H.P. Public Service Commission at later stage just to deprive the candidates from their regular pay and their right to continue in the service. The High Court failed to notice the aforesaid fact and erred in holding that the regularization of service is not permissible. In fact it was not a case of regularization of service of the appellants but is a case wherein direction ought to have been issued on the respondents to provide the appellants with orders of regular appointment from the date of their initial appointment and to treat the initial period of two years as probation and to provide them with other consequential benefits.
18. For the reasons aforesaid, we set aside the impugned judgment dated 27<sup>th</sup> June, 2013 passed by the High Court of Himachal Pradesh at Shimla in CWP No.1553 of 2013-F and direct the respondents to provide letter of regular appointment to the appellants w.e.f. the date of their initial appointment treating the initial two years as on probation with further direction to provide the appellants with consequential benefits including regular scale of pay, increment, arrears of pay, seniority etc. to which they are entitled under the law. The formal orders in compliance with this Court's order to be issued within two months and consequential benefits should be paid within three months.
19. The appeal is allowed with aforesaid observations and directions, no costs."

AND WHEREAS the Respondent-HPSEBL thereafter filed the Review Petition No.1082 of 2015 in the Hon'ble Supreme Court of India from and against the judgement dated 13.1.2015, which came up for hearing on 30.04.2015, when Hon'ble Court was pleased to dismiss the same.

AND WHEREAS on the dismissal of the aforesaid Review petition, the Respondent-HPSEBL Ltd., also filed the Curative Petition No.406 of 2015 in Review Petition No.1082 of 2015 in Civil Appeal No.390 of 2015 arising out of SLP(C) No. 32707 of 2013, which came up for consideration before the Hon'ble Supreme Court of India on 3.2.2016, when Hon'ble Apex Court has been pleased to pass the following orders:-

"We have gone through the Curative Petition and the relevant documents. In our opinion, no case is made out within the parameters indicated in the decision of this Court in Rupa Ashok Hurra vs Ashok Hurra & another, reported in 2002(4) SCC388. Hence, the Curative Petition is dismissed"

AND WHEREAS one Inder Singh Verma AAO(Contract) had also filed CWP No.1777 of 2013 titled as Inder Singh Verma Vs State of HP & Ors in the Hon'ble H.P.High Court of Shimla seeking therein regularization of his services, which came up for hearing on 16.5.2015 when Hon'ble Court was pleased to pass the orders, the main operative part of which is as under:-

\* .....

3. On such representation, Ld counsel for the respondents sought time to obtain instructions. Today, when the case was taken up for hearing, it was conceded by Mr.Vinay Kuthiala, Ld.Senior Advocate, assisted by Mr.Raj Pal Singh Thakur, Advocate that the issue in hand was squarely covered by the judgement in Arjun Singh's case supra.

4. This being the admitted position, this Court has no other option but to allow the writ petition. It is made clear that the judgement in Arjun Singh's case shall apply mutatis mutandi to the present case.
5. The respondents are directed to comply with the same in its letter and spirit by providing letter of regular appointment to the petitioner w.e.f. the date of his initial appointment treating the initial two years as on probation with further direction to provide the petitioner with all consequential benefits including regular pay scale, increment, arrears of pay, seniority etc to which he is entitled under the Law. The formal orders in compliance with this Court order be issued within two months and consequential benefits be paid within three months, failing which the respondents shall be liable to pay interest @ 9% per annum.  
The petition is accordingly allowed, leaving the parties to bear their costs"

AND WHEREAS Sh.Ram Krishan, AAO(Contract) & two others had also filed CWP No.2174 of 2013 titled "Ram Krishan & Ors Vs HPSEBL" in the Hon'ble High Court of HP for the same reliefs as sought for by Sh.Inder Singh Verma in CWP No.1777 of 2013, which came up for hearing on 21.5.2015 when Hon'ble Court has been pleased to pass the following orders :-

"Mr. Ajay Mohan Goel, learned counsel for the petitioners submits that the present lis is squarely covered by a judgement rendered by the Hon'ble Apex Court in SLP(C) No. 32707 of 2013 titled as Arjun Singh and others vs. State of H.P. and others decided on 13.01.2015.

Consequently, the present petition is disposed of with a direction to the respondents-State to confer the same benefits to the petitioners, as were given in the above said judgement of the Apex Court, within a period of four weeks from today. The pending application(s), if any, are also disposed of. No costs."

AND WHEREAS one Sh. Jodh Singh, who was appointed as AAO on contract basis against 3% quota meant for persons with disabilities, has also filed CWP No. 5557 of 2012 before the Hon'ble High Court of HP at Shimla, which is pending consideration and the said Sh. Jodh Singh, petitioner has also filed Contempt Petition No.4295 of 2014 in CWP No.5557 of 2012 titled Sh.Jodh Singh Vs Smt. Minoo Sood, Addl.Secretary, HPSEBL is also pending consideration before Hon'ble HP High Court at Shimla. The CWP No. 5557 of 2012 alongwith COPC No. 4295 of 2014 and COPC No. 195 of 2016 in CWP No. 1777 of 2013 are now fixed for hearing on 25.5.2016 for implementation & compliance of the orders & judgement dated 13.1.2015 passed by the Hon'ble Apex Court in Civil Appeal No. 390 of 2015 titled Sh. Arjun Singh & Ors Vs HPSEB Ltd. in the above cases.

AND WHEREAS the proposal for regularization of the services of the Asstt. Accounts Officers (Contract) engaged by the HPSEBL during 2009 & 2010 w.e.f. the date(s) of their initial appointment, treating the initial two years as on probation with consequential benefits including regular scale of pay, increment, arrears of pay, seniority etc. pursuant to the judgement dated 13.1.2015 delivered by the Hon'ble Supreme Court of India in Civil Appeal No.390 of 2015 arising out of SLP No.32707 of 2015 titled as Sh.Arjun Singh & Ors Vs State of HP & Ors, was discussed in 25<sup>th</sup> meeting of Board of Directors of HPSEBL held on 29.03.2016.

AND WHEREAS after detailed deliberations and careful consideration of the matter(s), it has been decided to implement the judgement dated 13.1.2015 passed in Civil Appeal No.390 of 2015 arising out of SLP(Civil) 32707 of 2013 by the Hon'ble Supreme Court of India, the orders passed by the Hon'ble High Court of HP at Shimla in CWP No.1777 of 2013 and CWP No.2174 of 2013 respectively, in their letter and spirit.

AND WHEREAS, in view of the decision of the competent authority as also taking into account, the facts and circumstances of the case, the services of the following Asstt.Accounts Officers (Contract) are regularized from the date(s) indicated against their names herein below:-

Sr. No	Name S/Sh/Smt/Ms	DOB	DOJ	Date from which the services are to be regularized	Present place of posting
1	Kapil Kumar	6.3.79	3.7.2009 (AN)	4.7.2009	OC Rohru
2	Arjun Singh	15.11.77	3.7.2009 (AN)	4.7.2009	F&A Wing
3	Jasmine Patial	24.9.81	10.7.2009 (FN)	10.7.2009	OC Hamirpur
4	Naveen Chand	18.1.80	10.7.2009(FN)	10.7.2009	CE(PCA), Shimla
5	Kamal Jeet Singh	31.3.75	3.7.2009 (AN)	4.7.2009	F&A Wing
6	Mohinder Singh	25.8.77	3.7.2009 (FN)	3.7.2009	OC Solan
7	Ram Krishan (OBC)	25.6.79	6.7.2009 (FN)	6.7.2009	CE(SO) Shimla
8	Vipin Kumar(S/C)	15.3.80	3.7.2009 (AN)	4.7.2009	OC Shimla
9	Gagan Deep	25.7.79	10.7.2009(FN) to 9.7.2010 joined on re-engagement 24.3.2011(FN)	10.7.2009	C.E.(Gen.), Sundernagar (now in Op.Circle Mandi)
10	Jodh Singh (PH-VI)	18.1.80	17.5.10(FN)	17.5.2010	F&A Wing
11	Yuv Raj (S/T)	4.8.68	12.5.10(FN)	12.5.2010	F&A Wing
12	Inder Singh	15.3.67	22.5.10(FN)	22.5.2010	F&A Wing

Consequent upon above regularization of the Asstt.Accounts Officers (Contract), they will be treated on probation initially for the period of two years from the date(s) of their appointment/regularization. Their inter-se-seniority position as on 1.9.2010 in the grade of Asstt.Accounts Officer is hereby assigned as under:-

Sr. No	Name of official. Sh./Smt/Miss.	Date of Birth
1	Kapil Kumar	6.3.79
2	Gita Ram	1.11.56
3	Arjun Singh	15.11.77
4	Jasmine Kaushal	24.9.81
5	Naveen Chand	18.1.80
6	Kamal Jeet Singh	31.3.75

7	Mohinder Singh Chauhan	25.8.77
8	Ram Krishan(OBC)	25.6.79
9	Vipin Kumar Kaushal(SC)	15.3.80
10	Gagan Deep	25.7.79
11	Jodh Singh (PH-VI)	18.1.80
12	Ramesh Kumar	9.9.71
13	Naval Kishore	10.6.73
14	Amar Chand	8.3.55
15	Beli Ram	1.1.55
16	Yuv Raj (S/T)	4.8.68
17	Amar Singh	26.4.53
18	Nihal Singh	29.5.62
19	Anil Kumar	20.3.78
20	Hem Chand Sharma	18.6.53
21	Inder Singh	15.3.67
22	Jagdish Chand	15.10.58
23	Basir Mohd.	3.11.52
24	Amar Singh Verma	31.3.54
25	Onkar Singh	27.10.54
26	Jai Parshad Sharma	17.10.53
27	Satish Kumar	26.3.55

AND WHEREAS on the assignment of inter-se-seniority to aforesaid AAOs (Contract) on the regularization in the grade, they became senior to the officers who were considered by the Class-I DPC in its meeting held on 28.08.2010 for their promotion to the post of AO. Since the aforesaid contract AAO by virtue of their regularization became senior, therefore, as on 28.8.2010 they have been considered for their promotion to the post of Accounts Officer in accordance with law i.e. the provisions of R & P Regulations of the cadre of Accounts Officer, notified & circulated vide notification dated 2.1.2010, applicable at the relevant time.

AND WHEREAS the claim of the AAO aforesaid who have become senior by virtue of the Hon'ble Apex Court order have been considered against 80% promotional quota on the basis of the provisions of R & P Regulations, but since they have not qualified the SAS Part-II either on the aforesaid date of DPC i.e. 28.8.2010 or thereafter till date, therefore, as per provisions of the R & P Regulations they were not found eligible for their promotion as Accounts Officer as on 28.8.2010 or thereafter till date & consequently their names have not been recommended for further promotion to the post of Accounts Officer.

AND WHEREAS the above AAOs were not found eligible and their names having not been recommended for their promotion as AO, therefore, all the promotions made in pursuance of DPC dt. 28.8.2010 and thereafter to the grade of AO/Sr. AO/ Dy. CAO/Dy.CA etc. and the seniority assigned to the promotee officers in the grade of AO/Sr. AO/Dy.CA/Dy.CAO would remain un-changed.

AND WHEREAS on the basis of Final Seniority list of Sr. Accounts Officers as it stood on 01.01.2015 circulated vide letter dated No. HPSEBL (SECTT)/GE-102-75/2015-7988-92 dated 28.4.2015, the Class-I DPC in its meeting held on 4.5.2016 considered and recommended the eligible Sr.Accounts Officers for their promotion to the posts of Deputy Chief Accounts Officer / Deputy Chief Auditor against available vacancies.

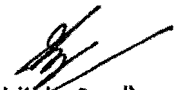
NOW, THEREFORE, on the recommendations of the Class-I DPC, the following Sr.Accounts Officers are hereby promoted as Deputy Chief Accounts Officer / Deputy Chief Auditor in the pay band of Rs.16650-39100+8500 Grade Pay from the actual date of their taking over as such:-

Sr. No.	Name of officers	D.O.B.
1.	Ramesh Kumar	9.9.71
2.	Naval Kishore	10.06.73

The seniority of above named officers in the grade of Dy. Chief Accounts Officer/Dy. Chief Auditor will be fixed later-on.

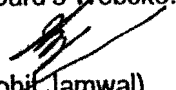
The officers on their promotion as Dy. Chief Accounts Officer/Dy. Chief Auditor should exercise their option with regard to date of increment / pay fixation under the provision of Pay Regulations 11 (iv) within a period of one month after assuming the charge of the post on regular basis.

Consequent upon the above regularization of AAO contract as herein above and promotion of the eligible Sr.AO as Dy.CAO/Dy.CA, the aforesaid officers shall continue to work at their existing places of posting.

  
(Rohit Jarnwal),  
Executive Director(Personnel),  
HPSEBL, Vidyut Bhawan,  
Shimla

No.HPSEBL (SECTT)/GE/102-13/2016- 12284-12323 Dated:- 9/5/2016  
Copy forwarded to:-

1. The Chief Engineer (PCA/System Operation) Shimla.
2. The Superintending Engineer (Op) Circle, HPSEBL, Shimla/Rohru/Solan/Mandi/Hamirpur
3. The Chief Accounts Officer, HPSEB Ltd., Shimla-4. He is requested to initiate further follow-up necessary action qua the fixation of pay, grant of increment and release of arrear etc as the case may be, at his end immediately, being the consequential reliefs/benefits in pursuance of the orders/judgement dated 13.1.2015 passed by the Hon'ble Apex Court in CA No.390 of 2015 and orders dated 16.5.2015 & 21.5.2015 passed by the Hon'ble High Court of HP at Shimla in CWP No.1777 of 2013 & 2174 of 2013.
4. The above named officers/Personal file/Guard file/S-V in this section/Board's Website.

  
(Rohit Jarnwal),  
Executive Director(Personnel),  
HPSEBL, Vidyut Bhawan,  
Shimla