



Subject:- Re-fixation of seniority of Ishrat Bashir and Sheikh Sabiya Parveen, Junior Engineer (Electrical).

Ref: SSB/I-2/2012/1448-49114 dated 12.08.2014 from J&K Service Selection Board.

Notice

Whereas, Ishrat Bashir and Sheikh Sabiya Parveen had applied to the post of Junior Engineer (Electric) Grade-II vide SSB notification No. 04 of 2004 dated 23.09.2004; and

Whereas, on the recommendation of SSB among others Ishrat Bashir and Sheikh Sabiya Parveen were selected as Junior Engineer (Electric) Grade-II in the category of diploma holders ; and

Whereas, on the basis of merit furnished by SSB the Power Development Department issued the appointment orders of selected candidates in Degree/Diploma categories including Ishrat Bashir and Sheikh Sabiya Parveen vide Government Order No. 175-PDD of 2007 dated 10.07.2007 wherein the incumbents figured at S.No. 38 and 87 respectively; and

Whereas as per the merit assigned by the SSB the department issued seniority list of JE (Degree /Diploma) Holders vide Govt. Order No. 314-PDD of 2007 dated 23.10.2007 wherein Irshrat Bashir and Sheikh Sabiya Parveen (JE) figured at seniority No. 527 and 546 respectively in the Diploma category; and

Whereas, Irshrat Bashir and Sheikh Sabiya Parveen (JE) aggrieved by the seniority position allotted to them in the seniority list of Diploma holders had filed SWP No. 258/2012 before the Hon'ble High Court. The Hon'ble High Court on 30.12.2013 has disposed of SWP No. 258/2012. The conclusive /operative part of the judgement dated 30.12.2013 is reproduced as under:-

" Mr. T.H.Khawja, learned appearing counsel for the Service Selection Board had admitted the position of petitioners vis-à-vis their being possessed of Degree qualification at the time of submission of their application Forms but could not convince the court as to why they were deprived of the benefit of placing them amongst the degree holder Engineers. The action of respondents in

Name of the candidate	B. Qualf.	OM	Total Marks	%age	Wtg. To B.Qualf 70 Pts	Viva voce	G.Total
Ishrat Bashir	Dip E&C/Degree	5777	8000	72.21	50.54	19.33	69.87
Sheikh Sabiya Parveen	Dip E&C/Degree	5575	8000	69.68	48.78	19.67	68.45

Last cut off point under OM category = 67.15

Whereas, SSB has further intimated that the Board had adopted and given weightage (70 points) to Degree/ Diploma certificate on pro-rata basis, as such the aforementioned two petitioners were given consideration and selected as against the post of JE (Electrical) on the basis of their marks obtained in Diploma, for the reason that their Diploma marks were having high percentage than the Degree. The petitioners on the basis of their Diploma were having an overall merit of 72.31 (Petitioner No. 01) and 69.55 (Petitioner No. 2) and were selected at S.No. 38 & 87 respectively.

Whereas, SSB has stated that considering the degree certificates of petitioners and the marks obtained by petitioners the overall merit of the petitioners as evaluated herein above brings down the Serial No. of petitioner No. 01 (namely Ishrat Bashir) in the merit list from **38 to 80** and that of petitioner No. **02** (Sheikh Sabiya Parveen) **from 87 to 128** under OM category.

Whereas as per the merit furnished by SSB, the petitioner No. 1 namely Ishrat Bashir need to be placed at Srty No. 406-A i.e below Shazia Ali whose merit was 69.92 and figure at Srty No. 406 and above Surya Jamwal whose merit was 69.77 and figure at Srty. No. 407 in the seniority list of degree holders issued vide Government Order No. 314-PDD of 2007 dated 23.10.2007.

Whereas, with regard to the petitioner No. 2, namely Sheikh Sabiya Parveen needs to be placed at Srty. No. 428 -A i.e below Rohit Salathia whose merit was 68.47 and figure at 428 and above Shri Abdul Hamid whose merit was 68.41 and figure at Srty. No. 429 in the seniority list of degree holders issued vide Government Order No. 314-PDD of 2007 dated 23.10.2007.

Now, therefore, before re-fixing the seniority of the petitioners in the seniority list of degree holders in compliance to the judgement of Hon'ble High Court dated 30.12.2013 passed in SWP No. 258/2013 CMP No 4018/2013 and CMP No. 375/2012 coupled with the facts and rules the

placing the petitioner amongst Diploma Holders despite the fact that the petitioners possessed B.E Degree and qualified to be placed amongst Degree holders Engineers amounts to colorable exercise of power, hence unsustainable.

In the given circumstances, the writ petition is allowed:

- By writ of certiorari impugned Government Order No. 175- Power Development Department of 2007 dated 10.07.2007 to the extent the same reflects the selection of the petitioners on the basis of basic qualification of Diploma instead of B.E Degree is quashed.*
- By writ of certiorari the final seniority list so far as the same fails to reflect the petitioners at the appropriate place amongst the Degree holder Jr. Engineers(Electric) Grade-II and instead reflects them amongst Diploma holder Jr. Engineer(Electric) Grade-II is quashed.*
- By writ of mandamus commanding respondents to reflect the petitioners at the appropriate place in the order of seniority amongst Degree Holder Junior Engineer(Electric) Grade-II as per their merit and date of appointment and accord due consideration to them for their promotion to the post of Assistant Engineer (Electric) in the quota of 60% reserved under rules for Degree holder Junior Engineers and Promote them accordingly.*

*Interim direction shall stand merged.
Disposed of alongwith all connected CMP(s).
Records produced by Mr.M.A.Chashoo, learned AAG are returned to him in the open Court."*

Whereas, in view of the above judgement of the Hon'ble High Court the case of the petitioners has been examined in the department and vide letter No. PDD/Genl/48/2010 dated 25.06.2014, SSB was requested to furnish the merit position of the petitioners in the category of Junior Engineer(Electric) Degree holders viz-a-viz last candidate selected under open category in the said list, so that the claim of petitioners in compliance to the judgement of Hon'ble High Court dated 30.12.2013 can be considered and settled by including the petitioners in the seniority list of Junior Engineers(Electric) Degree Holders issued vide Govt. Order No. 314-PDD of 2007 dated 23.10.2007; and

Whereas, SSB vide letter No. SSB/I-2/2012 dated 12.08.2014 intimated that the merit position of the candidates namely Ishrat Bashir and Sheikh Sabiya Parveen who are the petitioners in the aforesaid writ petition, for the post of JE (Electrical) on the basis of their BE degree is given as under:

following action is proposed for inviting objections, if any, from the members of the services who are likely to be affected with the proposed action in respect of petitioners:-

- Re-fix seniority of Ishrat Bashir(Petitioner No. 1) at Srty No. 406-A i.e below Shazia Ali figuring at Srty No. 406 and above Surya Jamwal figuring at Srty No. 407 in the final seniority list of Junior Engineer(Electric){Degree Holders} issued vide Government Order No. 314-PDD of 2001 dated 23.10.2007 by the Power Development Department. and
- Re-fix seniority of Sheikh Sabiya Parveen (Petitioner No. 2), at Srty No. 428 -A i.e below Rohit Salathia figuring at 428 and above Shri Abdul Hamid figuring at 429 in the final seniority list of Junior Engineer(Electric){Degree Holders} issued vide Government Order No. 314-PDD of 2001 dated 23.10.2007 by the Power Development Department.

Objection from any member of the service with regard to above proposed action should reach to the HRM Branch of Power Development Department within a period of 21 days from the date of publication of this notice, falling which no objection shall be entertained and it shall be presumed that nobody has any objection regarding re-fixation of seniority of the petitioners.

Sd/-

(Mohinder Singh) KAS
Additional Secretary to Government
Power Development Department