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കേരള സർക്കാർ
Government of Kerala
2014



Regn. No. KERBIL/2012/45073
dated 5-9-2012 with RNI
Reg. No. KL/TV(N)/634/2012-14

കേരള ഗസറ്റ്
KERALA GAZETTE

അസാധാരണം
EXTRAORDINARY

ആധികാരികമായി പ്രസിദ്ധപ്പെടുത്തുന്നത്
PUBLISHED BY AUTHORITY

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GOVERNMENT OF KERALA

Power (C) Department

NOTIFICATION

G. O. (P) No. 11/2014/PD. *Dated, Thiruvananthapuram, 11th April, 2014.*

S. R. O. No. 240/2014.—In exercise of the powers conferred by sub-section (2) of section 131 of the Electricity Act, 2003 (Central Act 36 of 2003) read with sub-clause (2) of clause 9 of the Kerala Electricity Second Transfer Scheme (Re-vesting), 2013, the Government of Kerala hereby make the following Scheme to amend the Kerala Electricity Second Transfer Scheme (Re-vesting), 2013 issued under G. O. (P) No. 46/2013/PD dated 31st October, 2013 and published as S. R. O. No. 871/2013 in the Kerala Gazette Extraordinary No. 3103 dated 31st October, 2013, namely:—

PRINTED AND PUBLISHED BY THE SUPERINTENDENT OF GOVERNMENT PRESSES AT THE
GOVERNMENT CENTRAL PRESS, THIRUVANANTHAPURAM, 2014.

SCHEME

1. *Short title and commencement.*—(1) This Scheme may be called the Kerala Electricity Second Transfer (Amendment) Scheme (Re-vesting), 2014.

(2) It shall be deemed to have come into force on the 31st day of October, 2013.

2. *Amendment of Scheme.*—(1) In the Kerala Electricity Second Transfer Scheme (Re-vesting), 2013 for sub-clause (1) (m) of clause 2, the following sub-clause shall be substituted, namely:—

“(m) “property” means all assets including power systems as defined in Electricity Act, 2003 (Central Act 36 of 2003), plant, machinery, land, building, offices, stores, furniture, fixtures, vehicles, residential quarters and guest houses and amenities and installations pertaining and attached thereto and other movable and immovable assets, cash in hand, cash at bank, investments, book debts—corporeal and incorporeal, tangible and intangible assets, benefits, licenses, consents, authorities, registrations, concessions, grants, patents, trade marks and powers of every kind, nature and description whatsoever, privileges, liberties, easements, advantages, benefits and approvals, contracts, deeds, schemes, bonds, shares, agreements and other instruments and interest of whatever nature and wherever situated belonging to the erstwhile Board;”

(2) In sub-clause (4) of clause 6 of the said Scheme, for the words “deputed to them”, the words “posted to the concerned SBU” shall be substituted.

(3) For sub-clause (5) (a) of clause 6 of the said Scheme, the following sub-clause shall be substituted, namely:—

“(a) the Transferee and the State Government shall be jointly and severally responsible to duly make all such payments to the personnel in respect of the rights, responsibilities, liabilities and obligations and personnel related matters including the statutory dues such as salary, wages, gratuity, pension, provident fund, compensation, terminal and retirement benefits till the date of re-vesting and thereafter by the Transferee subject to the provisions of sub-clause (9) (e) of clause 6 of this Scheme;”

(4) In sub-clause (8) of clause 6 of the said Scheme, for the words and letters “The State Government, Kerala State Electricity Board Limited and Employees Unions may enter into a tripartite agreement in consideration of the promises and mutual conditions set forth therein. A model Tripartite Agreement

is appended as Schedule-C;" occurring at the end, the words and letters "The State Government, Kerala State Electricity Board Limited and Employees Unions shall enter into a tripartite agreement in consideration of the promises and mutual conditions set forth therein. The Tripartite Agreement is appended as Schedule-C;" shall be substituted.

(5) For sub-clause (12) of clause 6 of the said Scheme, the following sub-clause shall be substituted, namely:—

"(12) Payment of pension of personnel who have joined the service in KSEB on or after 1-4-2013 will be governed by the Government Orders, Circulars and guidelines issued from time to time in this regard as applicable to Government employees ;"

(6) For sub-clause (13) of clause 6, of the said Scheme the following sub-clause shall be substituted, namely:—

"(13) KSEB General Provident Fund in respect of employees on the rolls of KSEB/Board as on 31-3-2013 will continue to be managed in the same manner as at present and the existing rules and regulations will continue to govern the functioning of the Provident Fund. The Government in exercise of power conferred by the sub-section 3 of the section 8 of the Provident Fund Act, 1925, will issue necessary notification to add the name of the Kerala State Electricity Board Limited, in the Schedule to the Provident Fund Act of 1925 to enjoy the benefits under the Act. The Provident Fund in respect of the employees recruited from 1-4-2013 will be governed by the Government Orders, Circulars and guidelines issued from time to time in this regard as applicable to Government employees. Inter transfer of General Provident Fund with pension fund is banned and separate funds shall be maintained for pension fund ;"

(7) For clause (10) of the said Scheme, the following clause shall be substituted, namely:—

"(10) *Autonomy of Management of the Transfer Scheme.*—The successor entity shall have full powers to take investment decisions and authority to decide with the consent of the State Government on issues of creation of posts below company level, personnel recruitment and selection, objective performance assessments of personnel, performance linked promotion for officers, compensation and incentives. Personnel recruitment and selection will be made through Kerala Public Service Commission as was done immediately

before the date of the transfer. The successor entity on its part shall not be seeking any financial support from the Government except as provided in the Scheme and cases mandated by the Act. In the event of successor entity seeking financial assistance in any other circumstances, it shall be governed by any restrictions imposed by Government ;”

(8) In Schedule B to the said Scheme, in condition 4 under the heading “I. Re-vesting Scheme for employees” for the words “deputed to them”, the words “posted to the concerned SBU” shall be substituted.

(9) For condition 5 (a) of Schedule B to the said Scheme under the heading, “I, Re-vesting Scheme for employees”, the following condition shall be substituted, namely:—

“5 (a) Notwithstanding anything contained elsewhere, the Transferee and the State Government shall be jointly and severally responsible to duly make all such payments to the personnel in respect of the rights, responsibilities, liabilities and obligations and personnel related matters including the statutory dues such as salary, wages, gratuity, pension, provident fund, compensation, terminal and retirement benefits till the date of re-vesting and thereafter by the Transferee subject to the provisions of sub-clause (9) (e) of clause 6 of this Scheme”.

(10) In Schedule B to the said Scheme, for condition 12 under the heading “ I. Re-vesting Scheme for employees”, the following condition shall be substituted, namely:—

“12 Payment of pension of personnel who have joined the service in KSEB on or after 1-4-2013 will be governed by the Government Orders, Circulars and guidelines issued from time to time in this regard as applicable to Government employees.”

(11) In Schedule B to the said Scheme, for condition 13 under the heading “I. Re-vesting Scheme for employees”, the following condition shall be substituted, namely:—

“13 KSEB General Provident Fund in respect of employees on the rolls of KSEB/Board as on 31-3-2013 will continue to be managed in the same manner as at present and the existing rules and regulations will continue to govern the functioning of the Provident Fund. The Government in exercise of power conferred by the sub-section (3) of the section 8 of the Provident Fund Act, 1925, will issue necessary notification to add the name of the Kerala State Electricity Board Limited, in the Schedule to the Provident Fund Act of 1925 to

enjoy the benefits under the Act. The Provident Fund in respect of the employees recruited from 1-4-2013 will be governed by the Government Orders, Circulars and guidelines issued from time to time in this regard as applicable to Government employees. Inter transfer of General Provident Fund with pension fund is banned and separate funds shall be maintained for pension fund.”

By order of the Governor,

M. SIVASANKAR,
Secretary to Government.

Explanatory Note

(This does not form part of the notification, but is intended to indicate its general purport.)

As per the G. O. (Ms.) No. 29/2008/PD dated 25th August, 2008, the Government had decided to restructure the Kerala State Electricity Board as a company under the Companies Act, 1956 (Central Act 1 of 1956) as stipulated in the Electricity Act, 2003 (Central Act 36 of 2003). Under sections 131 and 133 of the Electricity Act, 2003, the Government were required to prepare a transfer scheme to vest the assets and liabilities of the Kerala State Electricity Board in Government on such terms as agreed to between the Government and the Board and re-vest it in a Government company or in a Company or Companies in accordance with the Transfer Scheme so published.

As per the Kerala Electricity First Transfer Scheme issued by notification under G. O. (Ms.) No. 37/2008/PD dated 25th September, 2008, and published as S. R. O No. 990/2008 in the Kerala Gazette Extraordinary No. 2090 dated 25th September, 2008 the Government of Kerala took over all the functions, properties, and all interests, rights in properties, all rights and liabilities of the Kerala State Electricity Board. Under sub-clause (1) of clause 6 of the said Scheme, Government have issued the Kerala Electricity Second Transfer Scheme (Re-vesting), 2013 under G. O. (P) No. 46/2013/PD dated 31st October, 2013, and published as S. R. O. No. 871/2013 in the Kerala Gazette Extraordinary No. 3103 dated 31st October, 2013 re-vesting all the functions, properties and all interest, rights in properties, all rights and liabilities vested in the State Government to a company. Under sub-clause (2) of clause 9 of the Kerala Electricity Second Transfer Scheme (Re-vesting), 2013, Government have decided to amend certain clauses of the Kerala Electricity Second Transfer Scheme (Re-vesting), 2013.

The notification is intended to achieve the above object.

WHEREAS, the Government of Kerala as per G. O. (Ms.) No. 37/2008/PD, dated 25-9-2008 notified the Kerala Electricity First Transfer Scheme, 2008 for the purpose of vesting of functions, properties, interests, rights, obligations and liabilities of KSEB to State Government on the terms agreed to by KSEB and State Government.

AND WHEREAS, the Government of Kerala has notified as per G. O. (P) No. 46/2013/PD (SRO No.871/2013), dated 31st October 2013, the Kerala Electricity Second Transfer Scheme (Re-vesting), 2013 for re-vesting the functions, properties, interests, rights, obligations and liabilities of Board/KSEB from State Government to Kerala State Electricity Board Limited and also for the transfer of personnel of the erstwhile Board/KSEB to Kerala State Electricity Board Limited and for determining the terms and conditions on which such transfers and re-vesting shall be made.

AND WHEREAS, the State Government, the KSEB Limited and the employees and officers of the Board/KSEB are desirous of entering into an agreement to ensure the service conditions consequent to the re-vesting as envisaged under the Electricity Act, 2003 with a view to facilitate smooth implementation of the re-vesting scheme.

NOW, THEREFORE, in consideration of the promises and mutual conditions set forth herein, it is agreed by and among the parties as follows:

(1) In so far as this Tripartite Agreement is concerned:

(i) "Board" means Kerala State Electricity Board constituted under Section 5 of the erstwhile Electricity (Supply) Act, 1948 (54 of 1948), of which all functions, properties, all interests, assets, liabilities and personnel were vested in the State Government in the name of "Kerala State Electricity Board" after the notification of Transfer Scheme, dated 25-9-2008;

(ii) "Kerala State Electricity Board (KSEB)" means the undertakings of the Board vested in Government of Kerala through notification vide S.R.O. No. 990/2008, dated 25-9-2008 by which State Government is administering the functions of the Board by appointing the Special Officer and a Managing Committee till the date of re-vesting of the functions, properties, interests, rights, liabilities, proceedings and personnel to the transferee in accordance with the Electricity Act, 2003 and the Kerala Electricity Second Transfer (Re-vesting) Scheme, 2013;

(iii) "Kerala State Electricity Board Ltd." means the Company incorporated under Companies Act, 1956 (1 of 1956) wholly owned by the Government of Kerala, in which the Government will re-vest the functions, properties, interests, rights, liabilities, proceedings and personnel in accordance with sub-section (2) of Section 131 & Section 133 of Electricity Act, 2003 and the Kerala Electricity Second Transfer (Re-vesting) Scheme, 2013;

(iv) "Master Trust" means the Trust to be constituted to manage the funds and to disburse terminal benefits, pension etc. and ensure interest of the existing pensioners and the personnel transferred to the Kerala State Electricity Board Limited as on the date of re-vesting as regards payment of Terminal Benefits as defined in the Kerala Electricity Second Transfer (Re-vesting) Scheme, 2013.

(2) The State Government and the KSEB Ltd. hereby agree that:—

(a) There will be no retrenchment of employees for any reason and their status/services will be protected.

(b) All the existing permanent employees *including Part Time Contingent Employees* will be absorbed to KSEB Ltd.

(c) The terms and conditions of services of the existing employees such as promotions, transfers, wages, compensations, leave, allowances etc. upon transfer to KSEB Ltd. shall continue to be regulated by existing regulations/ service rules in vogue and is guaranteed to continue as indicated hereunder.

(d) With regard to wage/pay revision, the present system of periodic bipartite negotiations and agreements shall continue.

(e) The State Government and KSEB Ltd. shall take all steps to assure the payment of pension including dearness relief and other terminal benefits of the existing employees and pensioners as on the date of re-vesting, in the same pattern as on today including periodical revisions as applicable. To ensure this the Government has allowed the KSEB Ltd. to retain the electricity duty for a limited initial period and the Government is open to review this retention based on the adequacy of the corpus fund thus created.

(f) All the existing welfare measures for the existing employees as on the date of re-vesting, like the scheme for compassionate appointment, medical reimbursement, family pension, commutation of pension, voluntary retirement, invalid pension etc. shall be continued.

(g) All benefits of the services rendered by the existing employees in Board/KSEB as on the date of re-vesting shall be protected and be given full effect.

(h) The period of service of the existing employees under the Board/KSEB and under KSEB Ltd. shall be treated as continuous service for the purposes of the service benefits and terminal benefits payable to the personnel.

(i) All the existing welfare benefits to the retired employees shall continue. All obligations in respect of payment of pension and other retirement benefits including provident fund, welfare fund, superannuation pension, encashment of leave and gratuity to the employees who have retired and who are going to be retired from the service of the Board/KSEB as on the date of re-vesting shall be the liability of the KSEB Ltd. and in respect of all statutory and other schemes relating to the employees existing on the date of re-vesting, KSEB Ltd. shall stand substituted for the Board/KSEB to all intents and purposes.

(j) The employees of KSEB Ltd. will be paid gratuity as per the Payment of Gratuity Act, 1972.

(k) Liabilities in respect of gratuity and superannuation benefits shall be discharged by 'Master Trust' to be constituted under the Indian Trust Act, 1882. To meet this liability, the KSEB Ltd. will issue bonds to the Master Trust to the extent of the unfunded liability of ₹ 7584 Crores as on 30-9-2011. Kerala State Electricity Board Ltd. will issue two series of bonds to the Master Trust.

- ◆ 20 year bond with a coupon rate of 10% p.a. for ₹ 5021 Crores.
- ◆ 10 year bond with a coupon rate of 9% p.a. for ₹ 2039 Crores.

The State Government will fund ₹ 3186 Crores (Three Thousand One Hundred and Eighty Six Crores) over a period of next 10 years to the Kerala State Electricity Board Limited on annual basis for meeting the unfunded terminal liabilities.

Another ₹ 524 Crores will be funded by the Government through budgetary provision over next ten years in equal installments as per G. O. (Ms.) No. 43/2011/PD, dated 3-11-2011.

State Government also agrees that the electricity duty collected by KSEB for the period from 1-4-2008 to 31-3-2012 will be retained in the Kerala State Electricity Board Limited as its contribution for funding the terminal liability.

In addition to the above, the KSEB Ltd. will pay the annual pension contribution based on actuarial valuation to the Master Trust in respect of the personnel transferred to KSEB Ltd.

The unfunded liability upto the date of transfer will be borne and shared between the State Government and the Kerala State Electricity Board Ltd. Any addition to the liability of ₹ 7584 Crores will be borne and shared by the State Government and the Kerala State Electricity Board Ltd. in the ratio of 35.4 : 64.6 respectively.

The liability of ₹ 7584 Crores to the Master Trust will be funded as per clause 6(9) of the Kerala Electricity Second Transfer (Re-vesting) Scheme, 2013.

The KSEB Ltd. shall pay the Master Trust, the accrued interest on the above bonds for the financial year on the first day of April every year.

The administration of the Master Trust shall be done through a Board of Trustee for which a separate Government Order will be issued. However, the Board of Trustee shall be from among the Chairman and Managing Director, Directors, Financial Adviser and Secretary/Company Secretary of Kerala State Electricity Board Ltd. and the representation from the Employee's Unions and Associations only.

(l) If for any reason the Master Trust is not able to meet its obligations relating to payment of pensionary benefits from its fund fully or partially, the State Government and the KSEB Ltd. shall make good such shortages to ensure the payment of terminal benefits without any defaults.

(m) KSEB Employees Welfare Fund will be managed in future in the same manner as at present under the new set up and after re-vesting, the Governing Body shall meet and resolve on issues like change of name, bank accounts, investments in fixed deposits etc.

(n) All the existing agreements/settlements and liabilities of KSEB and Board shall be honoured by the KSEB Ltd.

(o) The existing employees transferred to the service of the KSEB Ltd. shall be deemed to have entered into an agreement/settlement with KSEB Ltd. to fulfill the obligations assumed by them with the Board/KSEB including in respect of repayment of loans, advances and other sums due which remain outstanding from the employees on the effective date. The transferee shall make all payments

due to the personnel in the same manner and on the same terms and conditions that existed prior to re-vesting subject to relevant Long Term Settlement negotiations and agreements entered into from time to time except in the case of payment of Terminal Benefits, which shall be administered through the Master Trust.

(p) Payment of pension of personnel who have joined the service in KSEB on or after 1-4-2013 will be governed by the Government Orders, Circulars and Guidelines issued from time to time in this regard as applicable to Government employees.

(q) KSEB General Provident Fund in respect of employees on the rolls of KSEB/Board as on 31-3-2013 will continued to be managed in the same manner as at present and the existing rules and regulations will continue to govern the functioning of the Provident Fund. The Government in exercise of powers conferred by the sub-section (3) of the Section 8 of the Provident Fund Act, 1925, will issue necessary notification to add the name of the Kerala State Electricity Board Ltd., in the Schedule to the Provident Fund Act of 1925 to enjoy the benefits under the Act. *Provident Fund in respect of the employees recruited from 1-4-2013 will be governed by the Government orders, Circulars and guidelines issued from time to time in the regard as applicable to Government employees.* Inter-transfer of General Provident Fund with pension fund is banned and separate funds shall be maintained for pension fund.

(r) All official proceedings including disciplinary proceedings pending at the time of re-vesting shall be dealt with by KSEB Ltd.

(s) All the existing workload norms will be continued and changes from time to time will be finalized through mutually negotiated settlements.

(t) All the appointments now being done through the Kerala Public Service Commission in accordance with the provisions of the Kerala Public Service Commission (Additional Functions) Act, 1963 will continue as such and amendments in this respect, if necessary, will be notified by the Government.

(u) The State Government shall ensure that KSEB Ltd. fulfills all its commitments as agreed upon above and Government will issue necessary orders to this effect.

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(3) This Tripartite agreement shall be read in conjunction with the Kerala Electricity Second Transfer (Re-vesting) Scheme, 2013.

IN WITNESS WHEREOF, the Parties hereto have caused this Tripartite Agreement to be executed by their duly authorized representatives on the day month and year first herein above written.

Witnesses :

Signed by Shri	1.
Secretary,	2.
Power Department,	
Government of Kerala.	

For and on behalf of the Government of Kerala
Of the FIRST PART

Witnesses :

Signed by Shri	1.
Chairman & Managing Director,	2.
For and on behalf of Kerala	
State Electricity Board Ltd.,	
Vydyuthi Bhavanam,	
Patton,	
Thiruvananthapuram-4.	
Of the SECOND PART	

Sl. No.	<i>Name of Signatory</i> <i>Name of the Union/Association</i> <i>Registration Number</i> <i>For and on behalf of the Unions representing</i> <i>workmen and officers (Of the Third part)</i>	<i>Signature</i>	<i>Witnesses</i>	<i>Signature of</i> <i>Witnesses</i>