

Government of India
National Commission for Scheduled Tribes
6th floor, 'B' Wing, Loknayak Bhawan
Khan Market, New Delhi-110 003

File No. RS/3/2015/STGDH/SEPROM/RU-I

Date: 11/01/2016

To

1. The Principal Secretary (Power),
& Chairperson,
Delhi Transco Ltd.,
Govt. of NCT of Delhi,
8th Floor, Delhi Secretariat,
I.P. Estate,
New Delhi – 110002.
2. The Managing Director,
Delhi Transco Ltd.,
(A Govt. of NCT of Delhi undertaking),
Shakti Sadan, Kotala Road,
New Delhi – 110002.

Sub: Representation dated 20/06/2015 received from **Shri Roop Singh**, Manager (T) O&M-III A, R/o Flat No. 8/D Highway Apartments DDA Flats, NH-24, Ghazipur, Delhi regarding depriving from legitimate right of Seniority & promotion of employee belonging to socially weaker section.

Sir,

I am directed to forward a copy of the Minutes of Proceedings of the Sitting held in the NCST on 07/01/2016 on the above mentioned subject for information and further necessary action.

Compliance Report may be submitted to the Commission by **21st January 2016**.

Encl: As above

Yours faithfully,

(Pramod Chand)

Deputy Secretary to the Govt. of India

Copy to:

Shri Roop Singh,
Manager (T) O&M-III A,
R/o Flat No. 8/D Highway Apartments DDA Flats,
NH-24, Ghazipur,
Delhi – 110096.

Copy for information to:

1. PS to Chairperson.
2. PS to Vice Chairperson.
3. Office of the Secretary.
4. Office of the Joint Secretary.
5. Assistant Director/Research Officer in Regional Offices of National Commission for Scheduled Tribes at Bhopal/Bhubaneshwar/Jaipur/Raipur/Ranchi and Shillong.
6. Sr. System Analyst (NIC Cell, NCST) for uploading on the website.

(Pramod Chand)

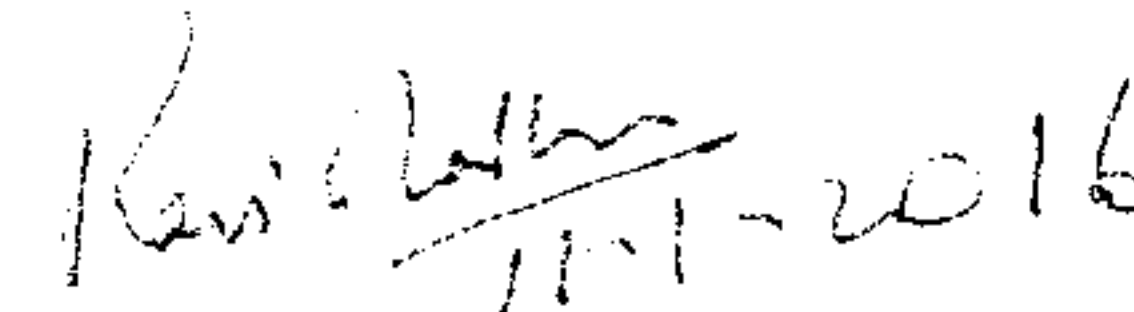
Deputy Secretary to the Govt. of India

GOVERNMENT OF INDIA
NATIONAL COMMISSION FOR SCHEDULE TRIBES

File No. RS/3/2015/STGDH/SEPRON/RU-1

Subject: Minutes of the Sitting in the case of Sh. Roop Singh, an employee of the Delhi Transco Limited, held under the Chairmanship of Hon'ble Vice Chairperson in the National Commission for Scheduled Tribes on 07-01-2016 at 03.00 pm.

1. A Sitting was held under the Chairmanship of Hon'ble Vice Chairperson, National Commission for Scheduled Tribes, to discuss the case of Sh. Roop Singh in the Conference Room, National Commission for Scheduled Tribes at 03.00 pm on 07/01/2016.
2. The list of participants in the Sitting is given at Annexure-A.
3. The Petitioner Sh. Roop Singh expressed his grievance that the final and settled seniority list-2009 of Manager(T) has been unlawfully changed in the year 2015 wherein his seniority has been fixed below to those who were promoted later than him. In continuation to earlier submissions made to Hon'ble NCST during last Proceedings of the hearing held on dated:- 13.10.2015 at 03:00 pm, the petitioner stated that DTL follows the rules/ guidelines of Department of Personnel & Training, GoI / DTL for the service matters. As per the applicable RR/ R&P, the Manager(T) is a "Selection" post and eligibility qualifying criteria are minimum 75% (overall 04 criteria i.e Departmental Competitive Exam, APAR, Experience & Qualification) and continuous service of at least 7 yrs in the feeder grade. The Petitioner was promoted to the post of Manager(T) in DPC held on 06.06.2006 whereas Sh. Niraj Sharma & Others were promoted in the subsequent DPCs. Accordingly, DTL issued final seniority list of Managers(T) in 2009 after completing due procedure of calling and considering the objections from concerned officers. The final seniority list of 2009 was suddenly revised in 2015 after completing 06 yrs. (approx.). The Petitioner's seniority of Manager (Tech.) was unsettled and placed below those who were promoted in the DPCs held later than the DPC in which he got promotion. The seniority unsettled and finalized in 2015 was in gross violation of applicable DoPT/ GoI / DTL rules & guidelines and Hon'ble Supreme Court's judgments. The existing and applicable DoPT/ GoI/ DTL rules & guidelines:-
 - a. As per DoPT rule, where promotions are made on the basis of 'SELECTION' the seniority of promotees shall be fixed in the order of recommendations of Departmental Promotion Committee (DPC). The persons promoted in one DPC are en-bloc senior to those promoted in a later DPC.
 - b. As per Office Order No. DTL/1010/HR(A&G)/21 dt:- 13.02.2006, those who have passed the training/test but could not secure/meet the overall 75% benchmark/eligibility criteria will continue to be reviewed by the successive DPCs and if and when they are empanelled, they will reckon their seniority in the higher rank from the date of their promotion.
 - c. As per DoPT's file no. 20011/1/2008-Estt.(D) dt:- 11.11.2010, a General/ OBC category officer promoted through a later DPC will be placed junior to the SC/ST category


रवि ठाकुर/RAVI THAKUR
उपाध्यक्ष/Vice Chairperson
राष्ट्रीय अनुसूचित जनजाति आयोग
National Commission for Scheduled Tribes
भारत सरकार/Govt. of India
नई दिल्ली/New Delhi

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... promotion ... through earlier DPC even though ...

Further to above, the Petitioner also quoted Hon'ble Supreme Court judgments applicable in this matter as under:-

- a. Hon'ble Supreme Court (Civil Appeal No. 2439 of 2010) has settled the law position about seniority in case of H.S.Vankani Vs. State of Gujrat stating that **seniority once settled shall not be unsettled** and if men in power violate it due to extraneous reasons, the departmental action should be taken against them.
- b. The Hon'ble Supreme Court of India also held in the judgment in case of Major Gen. H.M. Singh, VSM Vs. Union of India & Anr.,2014, that **the promotion is a fundamental right of a government servant, failing which he would be deprived of his fundamental right of equality before law and equal protection of laws, extended by article 14 of the Constitution of India.**

As per Article 142 of Constitution of India, the decrees of Hon'ble Supreme Court of India are enforceable throughout the territory of India.

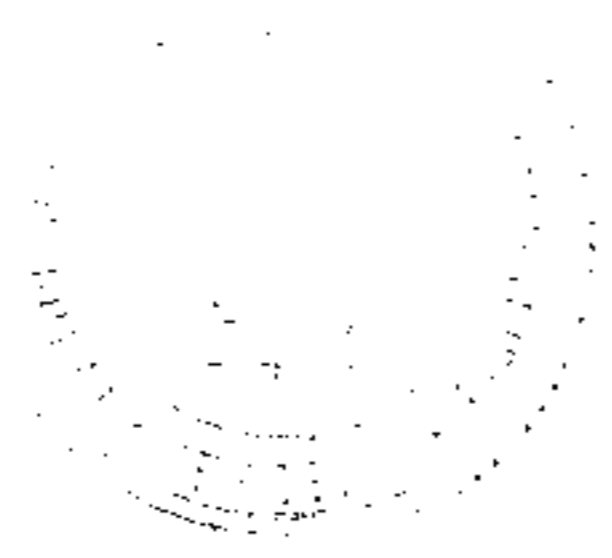
Petitioner also mentioned that the sudden change in the seniority of Manager(T) of year 2009 after completing six years(approx.), when his name came in the consideration for the promotion, has resulted in depriving of his rights for social and financial growth. This action of the authorities in depriving the applicant for promotion to the rank of DGM(T) has resulted in violation of his fundamental rights under article 14 of the Constitution of India. Such an action at the hands of the respondents is unquestionably arbitrary and with malafide intention. To add to the injury, DTL has promoted 09 nos. of Managers(T) to the post of DGM(T) on the basis of flawed seniority list-2015 and he was deprived from legitimate right of promotion even his name was considered & found 'FIT' and eligible for promotion to the post of DGM(T) by same DPC held on 24.09.2015.

The Petitioner concluded with the request to grant the justice & right of re-assigning the seniority above the officers who were promoted, at the grade of Manager(T), later than him. Therefore, his seniority in the grade of Manager (T) may be reassigned at S.No. 2-A in the final seniority list dt:- 05.08.2015 of Managers(T) i.e between Sh. Anish Garg and Sh. Niraj Sharma. The promotion and consequential benefits of the promotion to the rank of DGM(Tech.) be given to him from the date of promotion of his immediate junior.

4. Officers of the DoPT, clarified that in light of the existing and applicable DoPT guidelines, Sh. Roop Singh should be senior to those who were promoted in a later DPC, at the post of Manager(T). Accordingly, as a matter of right his seniority, in Manager(T) grade, should be fixed above those who were promoted in a later DPCs. He deserves for the promotion and other related benefits to the post of DGM(T) on the basis of re-assigned seniority from the date of promotion of his immediate junior.
5. Officers of Department of Power, Govt. of NCT of Delhi accepted the clarification of DoPT and assured that the seniority of Sh. Roop Singh, in grade of Manager(T), shall be re-assigned above to those officers who were promoted in later DPCs. Also the promotion to the post of DGM(T) and its consequential benefits shall be given with retrospective effect i.e. from the date on which his immediate junior got promoted to the post of DGM(T).

Ravi Thakur
11-1-2016

रवि ठाकुर/RAVI THAKUR
उपाध्यक्ष/Vice Chairperson
राष्ट्रीय अनुसूचित जनजाति आयोग
National Commission for Scheduled Tribes
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नई दिल्ली/New Delhi



Officers of Delhi Transport Limited agreed that they erred in unsettling the seniority of Sh. Roop Singh in the post of Manager(T). They assured that the seniority of Sh. Roop Singh, in grade of Manager(T), shall be re-assigned above to those officers who were promoted in later DPCs. Also the promotion to the post of DGM(T) and its consequential benefits shall be given with retrospective effect i.e. from the date on which his immediate junior got promoted to the post of DGM(T).

7. **Observations and Findings of the Commission:-** During the course of various proceedings, the NCST observed that the various DoPT/DTL guidelines and Apex Court's recent judgments have been violated & dishonored during re-fixing the seniority of Sh. Roop Singh, Manager(T) in the revised final seniority list-2015 on untenable grounds. Based on the said flawed final seniority list, 09 nos. Managers(T) have been promoted to the post of DGM(T) and he was deprived from his legitimate right of promotion even his name was considered & found 'FIT' and eligible for promotion to the post of DGM(T) by the same DPC held on 24.09.2015. This has resulted in deprivation of Sh. Roop Singh from his legitimate & fundamental right of seniority and promotion to the post of DGM(T) as per the Apex Court judgments & DoPT guidelines. This action is not only badly affecting his career growth but also depriving him from his right of social & financial up-gradation, for which he was waiting for the last 10 years approximately, more so when his name came into zone of consideration for promotion in accordance with the settled seniority list of 2009.

8. **Recommendation of Commission:-** In light of the guidelines / clarifications of Department of Personnel & Training, Govt. of India, and the judgments of Apex Court, NCST advised the DTL / DoP,GNCTD to re-assign the seniority of Sh. Roop Singh, in the Manager(T) grade, above those officers who were promoted/appointed later than him to the post of Manager(T). Accordingly, the seniority of Sh. Roop Singh should be re-assigned at S.No. 2-A in the final seniority list dt:- 05.08.2015 of Managers(T) i.e between Sh. Anish Garg and Sh. Niraj Sharma. Also, he should be given promotion to the post of DGM(T) with all consequential benefits with retrospective effect, i.e. the date on which his immediate junior was promoted to the post of DGM(T).

Further, it is also advised to DTL / DoP,GNCTD that in future, before taking any decision regarding Scheduled Tribe employees, it should be ensured that their legitimate Fundamental & Constitutional rights must be protected for social & financial up-gradation, as guaranteed under Constitution of India.

The DTL/DoP,GNCTD advised to submit the compliance report latest by 21st January 2016 positively.

9. The sitting ended with vote of thanks to the Chair.

Handwritten signature of Ravi Thakur
11-1-2016

रवि ठाकुर/RAVI THAKUR
उपाध्यक्ष/Vice Chairperson
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