

SPEED POST



भारत सरकार

Government of India

राष्ट्रीय अनुसूचित जन जाति आयोग

National Commission for Scheduled Tribes

(A Constitutional Body set up under Art. 338A of the Constitution of India)

File No. TB/3/2018/MFIN9/SEOTH/RU-IV

Dated: 06.08.2018

To,

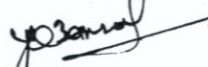
The Assistant Commissioner of Customs,
O/o Chief Commissioner of Customs,
15/1, Strand Road, Custom House,
Kolkata – 700 001 (West Bengal).

Sub: Minutes of the Sitting taken by Shri Nand Kumar Sai, Hon'ble Chairperson, National Commission for Scheduled Tribes (NCST) on 19.07.2018 in the case of Shri Tapan Barua, Preventive Officer, Custom House, Kolkata regarding an appeal pending before Chief Commissioner of Customs, Kolkata Zone (Appellate Authority) since 21.03.2016 against the matter of Compulsory retirement order dated 16.02.2016, passed by the Commissioner of Customs (Airport & Admn), Kolkata.

Sir,

I am directed to enclose a copy of the Minutes of the Sitting held on 19.07.2018 under the Chairmanship of Shri Nand Kumar Sai, Hon'ble Chairperson, National Commission for Scheduled Tribes on the above mentioned subject for necessary action at your end under intimation to the NCST as well as the petitioner concerned.

Yours faithfully,


(Y.K. Bansal)
Research Officer

(Encl: as above)

Copy to:-

Shri Tapan Barua,
Preventive Officer,
51, Kalyan Nagar Baruapara,
P.O. Natagarh, Sodepur, P.S-Kharda,
District – 24 Parganas (N),
Kolkata – 700 113 (West Bengal).

 Copy to: - SAC, NIC, NCST.

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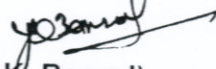
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NATIONAL COMMISSION FOR SCHEDULED TRIBES

TB/3/2018/MFIN9/SEOTH/RU-IV

PROCEEDINGS OF SITTING HELD ON 19.07.2018 AT 03.00 P.M CHAIRED BY SHRI NAND KUMAR SAI, HON'BLE CHAIRPERSON, NATIONAL COMMISSION FOR SCHEDULED TRIBES (NCST) IN THE CASE OF SHRI TAPAN BARUA, PREVENTIVE OFFICER, CUSTOM HOUSE, KOLKATA VIDE HIS REPRESENTATION DATED 28.12.2017 HAS SUBMITTED REGARDING AN APPEAL PENDING BEFORE CHIEF COMMISSIONER OF CUSTOMS, KOLKATA ZONE (APPELLATE AUTHORITY) SINCE 21.03.2016 AGAINST THE MATTER OF COMPULSORY RETIREMENT ORDER DATED 16.02.2016, PASSED BY THE COMMISSIONER OF CUSTOMS (AIRPORT & ADMN), KOLKATA.

Date of Sitting: 19.07.2018

List of officers present in sitting is Annexed.

The National Commission for Scheduled Tribes received a representation dated 28.12.2017 from Shri Tapan Barua, Preventive Officer, Custom House, Kolkata vide regarding non decision on his appeal pending before Chief Commissioner of Customs, Kolkata Zone (Appellate Authority) since 21.03.2016 against the matter of Compulsory retirement order dated 16.02.2016, passed by the Commissioner of Customs (Airport & Admn), Kolkata. In the representation, he has raised the following grievances:

- (i) While working at NACEN (ER), Kolkata as Equipment Officer vide posting order dated 30.10.2013 a charge memorandum dated 24.04.2014 was issued. Thereafter he has submitted reply of the charges on 05.05.2014.
- (ii) Without considering his submission, a departmental enquiry was initiated against him vide office order dated 05.05.2014. During the enquiry he has submitted all documents and submissions against the charges levelled against him before the Inquiry Officer. But the same was not taken into consideration and enquiry was concluded on 25.02.2015. The Inquiry Officer has submitted report on 01.04.2015. The reply on the Inquiry Officer's report was also submitted by him.
- (iii) Without considering his representation and submission, the Disciplinary Authority i.e. Commissioner of Customs (Airport & Admn.) has imposed penalty of compulsory retirement from service with immediate effect in terms of provisions of Rules 11 (vii) of CSS (CCS) Rules, 1965 vide order dated 16.02.2016.
- (iv) He preferred an appeal dated 21.03.2016 in the prescribed proforma against the penalty order before the Appellate Authority. However, the appeal has not been decided so far.

2. As per the procedure, the NCST vide its letter dated 02.04.2018 has sought a report from the Chief Commissioner of Customs Kolkata. However, no report was received from the Department concerned. Therefore, the Hon'ble Chairperson, NCST has fixed a Sitting on 19.07.2018 in the Commission. Accordingly, the Chief Commissioner of Customs, Kolkata and the petitioner concerned appeared in the Commission.

3. During the Sitting the petitioner has submitted that he was awarded a punishment of compulsory retirement vide order dated 16.02.2016. Thereafter he had submitted an appeal dated 31.03.2016 against the penalty order before the Appellate Authority and the same was not decided so far. However, on intervention of the Commission, the pending Appeal was



Nand Kumar Sai
Chairperson
National Commission for Scheduled Tribes
Govt. of India
New Delhi

decided by the Appellate Authority i.e. Chief Commissioner of Customs, Kolkata on 31.05.2018 by upholding the orders of Disciplinary Authority dated 16.02.2016.

4. The Chief Commissioner of Customs, Kolkata has briefed about the case and further informed that a departmental proceedings was initiated against Shri Tapan Barua, Preventive Officer for remaining on unauthorised absence from duty purportedly due to prolong illness without any proper sanction of leave from the period 18.08.2010 to 30.09.2013 which was ended up awarding of Compulsory Retirement from service by the Disciplinary Authority on 16.02.2016. His appeal dated 21.03.2016 was also decided by the Appellate Authority vide its order dated 31.05.2018 by upholding the orders of Disciplinary Authority. The decision of the Appellate Authority was also communicated to the petitioner on 31.05.2018.


5. During the Sitting, the Hon'ble Chairperson, NCST asked the petitioner to submit his points of view about the submission made by the Department concerned. In this regard, the petitioner has informed to the Commission that due to serious illness, he remained on medical leave. He had submitted all necessary medical certificates to the Department and the same was not taken into consideration. He was awarded punishment of compulsory retirement arbitrarily.

6. The Chief Commissioner of Custom, Kolkata has clarified in the case that the petitioner was remained unauthorised absent for last three years (2010 to 2013). During the leave, he has not submitted any leave or medical certificate. However, on joining in the Department in the year 2013, he had submitted two sets of medical certificate and the same was found as fake on verification. The award of punishment was issued after due procedure. The petitioner's Appeal was also rejected by the Appellate Authority. However, the petitioner has one more chance to submit second revision petition before the Hon'ble President of India, through Ministry of Finance against penalty orders.

7. The case was discussed in detail. In view of the Scheduled Tribe status of the petitioner and their previous inability to suitably articulate his difficulties, the Commission recommends as follows:

- The petitioner will submit a Revision Petition with all details and defence documents before the Hon'ble President of India against the penalty order dated 16.02.2016 with a request to impose lesser penalty, like stoppage of increments, withholding of promotion etc.
- On receipt of the Revision Petition, the Department will examine the matter in positive way. The case will be submitted to the Ministry of Finance taking into consideration of Petitioner's past good service records and his belongingness of member of poor Scheduled Tribes community.
- The Chief Commissioner of Custom, Kolkata will provide necessary assistance to the petitioner for preparing of Revision Petition and any other help. A sympathetic view will also be taken on the time of examination of the Revision Petition.

With these recommendations, the case was decided and closed.


1.8.18
Nand Kumar Sai
Chairperson
National Commission for Scheduled Tribes
Govt. of India
New Delhi

NATIONAL COMMISSION FOR SCHEDULED TRIBES

Annexure

(File No. TB/3/2018/MFIN9/SEOTH/RU-IV)

List of participants

NCST

1. Shri Nand Kumar Sai, Hon'ble Chairperson (In chair)
2. Miss Anusuiya Uikey, Hon'ble Vice-Chairperson
3. Shri H.K. Damor, Hon'ble Member
4. Shri H.C. Vasava, Hon'ble Member
5. Shri Raghav Chandra, Secretary
6. Shri P.T. Jameskutty, Deputy Secretary
7. Shri Y.K. Bansal, Research Officer
8. Shri H.R. Meena, Sr. Investigator

Officers of Department of Customs, Kolkata

1. Shri S.N. Saha, Chief Commissioner
2. Shri K. Chatterjee, Assistant Commissioner

Petitioner

Shri Tapan Barua