

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)

Case File No. KS/1/2018/MCOL1/SEFROM/RU-IV

Dated: 06.11.2018

To,

The Chairman and Managing Director,
Singareni Collieries Company Ltd.,
Kothagudem Collieries – 507 101
Khammam District (Andhra Pradesh).

Sub: Proceedings of the Sitting taken by Shri Nand Kumar Sai, Hon'ble Chairperson, National Commission for Scheduled Tribes (NCST) on 05.10.2018 in the matter of Shri K. Sreenivasulu, SE (E&M), RGOCP-III, RG-II area, Godavarikhani, Peddapalli District, Telangana regarding injustice to ST community officer nativity in promotion in SCCL, Telangana State.

Sir,

I am directed to enclose herewith a copy of the Proceedings of the Sitting held on 05.10.2018 under the Chairmanship of Shri Nand Kumar Sai, Hon'ble Chairperson, National Commission for Scheduled Tribes on the above mentioned subject for necessary action and submission of compliance report to this Commission expeditiously for placing the same before the Hon'ble Chairperson, NCST.

Yours faithfully,

(Y.K. Bansal)
Research Officer

(Encl: As above)

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12/11/18
जारी किया
ISSUED

For information & upload at Commission website to
NIC, NCST

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Government of India
राष्ट्रीय अनुसूचित जनजाति आयोग
National Commission for Scheduled Tribes


(F. No. KS/1/2018/MCOL1/SEPROM/RU-IV)

Minutes of sitting dated 05.10.2018 chaired by Shri Nand Kumar Sai, Hon'ble Chairperson NCST regarding denial of promotion to the post of Deputy General Manager (E&M) (E-7 Grade) in the Singareni Collieries Company Ltd. – a representation of Shri K. Sreenivasulu, working as S.E. (E&M) at RGOCP-III, RG-II area, Singareni Collieries Company Ltd., District – Peddapalli, Telangana State.

List of participants in the sitting is annexed.

The NCST discussed this issue with the officers of Singareni Collieries Company Ltd (SCCL) and the petitioner in the sitting held on 10.09.2018 under the Chairmanship of Shri Nand Kumar Sai, Hon'ble Chairperson, NCST. In the sitting, the case was discussed in detail. The Commission observed that the petitioner Shri Srinivasulu had joined in SCCL as Junior Executive Engineer Trainee (E&M) on 26.02.1998 during the periods of undivided State of Andhra Pradesh. He was Scheduled Tribe native of Andhra Pradesh. His promotion as Deputy Manager (E&M)/E-7 was due in the year 2018 and there were 2 backlog ST vacancies in the cadre. However, being senior most in the ST category, his promotion was denied due to his nativity as ST of Andhra Pradesh and extending the privilege of Rules of Reservation in promotions to only Telangana SC/ST candidates in view of State bifurcation in 2014. In this case Commission observed that :—

“The petitioner was earlier promoted from E-5 grade to E-6 grade through Rules of Reservation in promotions on 01.01.2015 i.e. only after bifurcation of the State by submission of ST certificate issued by the Telangana Government. But, during the next promotion (E-6), his claim of promotion was denied stating that the petitioner belongs to native of Andhra Pradesh and company's policy of extending benefits of promotion only for native of Telangana SC/ST. The SCCL is also implementing Rules of Reservation on promotion as per G.O.Ms. No. 5 dated 14.02.2003 of erstwhile Govt. of AP and in absence of any direction from Telangana Govt., SCCL's decision to stoppage of Rules of Reservation benefit in promotion to Andhra Pradesh native SC/ST employees is totally unjustified. It is also pointed out that the SCCL is a Central Public Sector Undertaking and is a subsidiary of Coal India Limited under the Administrative Ministry of Coal. The Rules of Reservations are applicable in all Central PSUs as per Govt. of India's Reservation Policy. The Rules of Reservation of the State Govt. cannot be forced on the Central PSUs. The Section 68 and 71 of State Re-organization Act, 2014 also provides that only Govt. of India can issue direction regarding division of interest between the existing State of Andhra Pradesh in the company and the successor State of Telangana. Hence, the opinion of the Additional Advocate General, Telangana cannot be treated as Government's Administrative instructions/decision. The Commission also felt that it is not a case of migration of ST person


नन्द कुमार साय/Nand Kumar Sai

from Andhra Pradesh to Telangana State jurisdiction of Telangana State. But the petitioner was already employed with the reservation of Scheduled Tribes cannot be denied. The reservation of Scheduled Tribes was also not modified after bifurcation about implementation of Rules of Reservation. The DoPT and Ministry of Home Affairs should seek opinion/advice in the matter. The Hon'ble High Court of Judicature at Hyderabad in its judgment in W.P. No. 10000 of 2015 and other writ petitions has ruled that Article 16(2) of the Constitution of India forbids a person from being rendered ineligible for or disqualified under the State inter alia only on the ground of place of birth or residence or any of them subject to however to the exception envisaged in clause (3) of Article 16 which enables the Parliament to make any law prescribing in regard to office under the Government, or any office under a State or Union Territory, any requirement as to residence with or appointment.

In the light of the above observations, the Commission recommends that the SCCL should review the case and consider the promotion of the petitioner Shri Srinivasulu as DGM - E-6 being senior most and eligible candidate against available backlog ST vacancies and in policy".

The minutes of sitting dated 10.09.2018 (Andhra Pradesh) for necessary action and with request to submit the action taken report within a month vide NCST's letter dated 19.09.2018. In meanwhile, the Hon'ble Commission decided to obtain the comments of DoPT in the matter. Accordingly, the issue was referred to the Secretary, DoPT for furnishing their comments in the matter, in the sitting dated 05.10.2018.

The representatives of DoPT appeared in the sitting dated 05.10.2018 informed that the matter relates with the reservation in PSUs, which requires examination. The DoPT not in position to comment on the minutes of sitting dated 10.09.2018 taken by the NCST in the matter. Hence, NCST may advise the SCCL to submit the proposal in the matter to DoPT through Ministry of

NCST agreed with the suggestions of DoPT and decided that the matter will be referred by NCST to SCCL, Management for appropriate action.

After State re-organization, the SCCL came under the jurisdiction of Telangana State. But the petitioner was already employed with the reservation of Scheduled Tribes cannot be denied. The reservation of Scheduled Tribes was also not modified after bifurcation about implementation of Rules of Reservation. The DoPT and Ministry of Home Affairs should seek opinion/advice in the matter. The Hon'ble High Court of Judicature at Hyderabad in its judgment in W.P. No. 10000 of 2015 and other writ petitions has ruled that Article 16(2) of the Constitution of India forbids a person from being rendered ineligible for or disqualified under the State inter alia only on the ground of place of birth or residence or any of them subject to however to the exception envisaged in clause (3) of Article 16 which enables the Parliament to make any law prescribing in regard to office under the Government, or any office under a State or Union Territory, any requirement as to residence with or appointment.

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**Government of India
National Commission for Scheduled Tribes**

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(F. No. KS/1/2018/MCOL1/SEPROM/RU-IV)

List of participants

I National Commission for Scheduled Tribes

1. Shri Nand Kumar Sai, Hon'ble Chairperson (In chair)
2. Shri H. K. Damor, Hon'ble Member
3. Dr. Lalit Latta, Director
4. Shri P.T. Jameskutty, Deputy Secretary
5. Shri Rajeshwar Kumar, Assistant Director
6. Shri Y.K. Bansal, Research Officer
7. Shri R. S. Misra, Senior Investigator
8. Shri H.R. Meena, Senior Investigator

II Department of Personnel & Training

1. Shri V.K. Singh, Joint Secretary
2. Ms Rajul Bhatt, Director (CS-1)
3. Shri G. Srinivasan, Director