



Government of India
National Commission for Scheduled Tribes

6th floor, 'B' Wing, Loknaya Bhawan,
Khan market, New Delhi-110 003.

Dated: 25.09.2013

No. RP/17/2011/STGAP/SEOTH/RU-IV

To

The Principal Secretary
Revenue Department
Government of Andhra Pradesh
Hyderabad


Sub: Representation received from Shri R. Prasad, Proh. & Excise Inspector, Visakhapatnam, AP regarding discrepancy in the Seniority list since 1979-80 and changes to be required in the seniority list according to the availability of substantive vacancies.

Sir,

I am directed to refer to the Sitting held on 26.8.2013 in the National Commission for Scheduled Tribes on the subject mentioned above and to enclose a copy of the Proceedings of the Sitting for necessary action.

2. It is requested that action taken report may please be sent to the Commission at an early date.

Yours faithfully


(N. Balasubramanian)
Research Officer


Copy for information and necessary action to :-

1. The Commissioner of Prohibition & Excise (FAC), Govt. of AP, Hyderabad
2. The Deputy Commissioner of Proh. & Excise, Govt. of Andhra Pradesh, Visakhapatnam- (AP).

Copy for information to:-

3. Shri R. Prasad, Excise Inspector, Qr No. A1/1, R&B Quarters, Nr. Andhara University- 506003, Visakhapatnam- (AP)

Yours faithfully


(N. Balasubramanian)
Research Officer

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NATIONAL COMMISSION FOR SCHEDULED TRIBES

File No. RP/17/2011/STGAP/SEOTH/RU-IV

Proceeding of the sitting taken by the Chairman, NCST on 26.08.2013 to discuss the case of Shri R. Prasad, Proh. & Excise Inspector, Visakhapatnam (AP) regarding restoration of seniority and promotion.

1. List of the officials present in the meeting is annexed.
2. The Commission noted that subsequent to pursuance of the earlier sitting, held in the matter on 15.12.2011, and the Prohibition & Excise Department vide letter No. 297/2011/A1, dated 18.05.2013 had informed the Commission that Shri. R. Prasad, Proh. & Excise Inspector grievances of restoration of seniority had been addressed and he had been placed at Sl.No. 100 in the panel year from 1997-98. *The final Seniority List was communicated for Sl. No. 35 to 104 vide RC No. 297/2011/A1, dated 04.01.2012 and 15.05.2013.* The petitioner was informed of the above, but not satisfied hence filed rejoinder in the matter. Thereafter, there had been protracted correspondence in the matter. To further discuss the issue, Commission held the Sitting on 26.08.2013.
3. The petitioner Shri. R. Prasad was heard by the Commission who submitted background of his case and in particular submitted the following points:
 - that while filling up the direct recruitment vacancies in the year 1997, 11 vacancies remained unfilled.
 - In OA 1890/2013 of AAPT filed by him, the AP Govt. has not taken opinion of *Government Pleader*.
4. The Principal Secretary, Revenue Department, Government of Andhra Pradesh apprised the Commission that:
 - Seniority list of Prohibition & Excise Inspector of Zone-I in which list the services of the petitioner were regularized from 24.09.1997 and he was placed at Sl.No. 100.

Rameshwar Oraon

Dr. RAMESHWAR ORAON
Chairperson
National Commission for Scheduled Tribes
Govt. of India
New Delhi

- the position of Shri R Prasad in the Integrated Seniority list of Prohibition & Excise Inspectors of Multi Zone-I is required to be revised from Sl. No. 117 to 108 by following the due procedure.
- the revision of Shri R. Prasad's seniority could not be taken up in view of the status-quo and interim suspension orders of the Hon'ble High Court in W.P.No. 13052/2010, dated 07.03.2011 & W.P. No. 11439/2011 dated 25.04.2011 in the issue of integrated seniority list of Multi Zone – I, dated 29.09.2009.
- the Department has, therefore, landed in a peculiar situation as the seniority lists were in suspended animation and there was a status-quo order.
- the Department has filed W.P.M. No. 37881/2012 & batch in W.P. No. 13052/2010 praying to operate provisional seniority lists dated 22.03.2011/24 & 25.03.2011 for considering promotions.
- The Hon'ble High Court in its orders dated 31.10.2012 in the W.P. M. No. 37881/2012 & batch in W.P. No. 13052/2010 filed by the department permitted to effect promotions taking into consideration the seniority lists dated 29.09.2009.
- further the Hon'ble High Court in its orders dated 31.10.2012 has also relaxed the Status-quo orders to the extent of consideration promotions only and the seniority lists, dated 29.09.2009 are sub-judice.

5. Shri R. Prasad, Prohibition & Excise Inspector filed O.A. No. 1890/2013 and the Andhra Pradesh Administrative Tribunal in its interim orders dated 20.03.2013, directed to reflect the applicant in the integrated seniority list of Prohibition & Excise Inspectors of Multi Zone-I. As the above interim direction of the Andhra Pradesh Administrative Tribunal,

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Hyderabad was against the status quo orders of the Hon'ble High Court, the Commissioner of Prohibition and Excise, AP, Hyderabad has filed VMA & Counter before the Andhra Pradesh Administrative Tribunal.

6. The Andhra Pradesh Administrative Tribunal in its final orders dated 29.07.2013 while disposing the O.A. No. 1890/2013 has ordered that:

(a) "x x x x in the light of status – quo orders granted by the Hon'ble High Court through this order dated 28.04.2011 and in the light of the directions given by the Hon'ble High Court of A.P. permitting the official respondent to effect promotions by taking into consideration the seniority list dated 29.09.2009, there is no possibility for the respondents to consider the case of the applicant for promotion after placing him in the seniority list at the appropriate place as per the revised dated of regularization i.e. 30.05.1997. Unless and until the Hon'ble High Court of A.P. pass final orders in Writ petition, it is not possible to direct the respondents to place the applicant in the seniority list at the appropriate place and to consider his case for promotion as per the provisional integrated seniority list dated 24.05.2011 of MZ-I. Therefore, the applicant is not entitled for the relief as prayed for at this stage."

7. In the given facts of the case including the orders of the Hon'ble Andhra Pradesh Administrative Tribunal, Hyderabad dated 29.07.2013 in O.A. No. 1890 of 2013 filed by the applicant, any proposal for revision of seniority or as the case may be and the interception of the name of the applicant in question in the Integrated Seniority List shall be advisable on **either on obtaining specific permission from the High Court for doing so or on the disposal of the W.Ps pending on the issue.**

8. In the light of the above, the Law Department, Government of AP advised the Excise department to examine the issue with reference to the facts and

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several Court orders and taken a decision for taking steps for expeditious disposal of the W.Ps or seeking specific orders of the High Court for revision of seniority of the promotees if considered necessary in the given circumstances of the case.

- The Commissioner of Prohibition & Excise, A.P., Hyderabad is, therefore, being requested to file a “**miscellaneous petition**” on the status quo and interim suspension orders of the Hon’ble High Court dated 07.03.2011 in W.P. No. 13052/2010 and dated 25.04.2011 in W.P. No. 11439/2011.
- A meeting has been held in the Chamber of Principal Secretary to Government, Revenue Department at 12.30 P.M. on 23.08.2013 and after detailed discussion the Commissioner of Prohibition and Excise, A.P. Hyderabad has been directed to file a “**Miscellaneous petition**” to permit the petitioner (i.e. Commissioner of Prohibition & Excise, A.P., Hyderabad) to effect revision of placement of Shri R. Prasad, Prohibition & Excise Inspector of Zone-I in the integrated seniority list of Prohibition & Excise Inspector of Multi Zone-I, dated 29.09.2009 subject to final orders the Writ Petitions pending on the file of the Hon’ble High Court.
- Accordingly the Commissioner of Prohibition & Excise, A.P. Hyderabad in his letter dated 23.08.2013 has forwarded fair affidavit to the Government Pleader for Ser.II, High Court of Andhra Pradesh, Hyderabad for filling a “**Miscellaneous petition**”.

9. Further the Principal Secretary, Revenue Department mentioned that under the circumstances, an application would be moved before the Hon’ble High Court seeking information to consider the case of Shri R. Prasad as per his eligibility based on revised seniority list.

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List of participants

NCST

1. Dr. Rameshwar Oraon, Hon'ble Chairperson
2. Shri Aditya Mishra, Joint Secretary
3. Mrs. K.D. Bhansor, Deputy Director
4. Shri H.R. Meena, Sr. Investigator

Govt. of Andhra Pradesh

1. Shri S.P. Singh, Principal Secretary, Revenue Department
2. Shri T.N. Venkata Swamy, Addl. Commissioner of Excise
3. Shri K.V.R. Sai Kumar, Deputy Commissioner

Petitioner

Shri R. Prasad, Proh & Excise Inspector