

**Proceedings of the Sitting of Shri Oris Syiem Myriaw , Hon'ble
Member with Advisor(Staff), Railway Board on 08.09.2009**

Issues

- (i) Promotion of Shri T. Madhava Rao, Technician Grade-I, IRISSET to the second post of Instructor (Scale Rs 6500-10500) reserved for STs as per the reservation roster.
- (ii) Representation from Shri R. M. Abhangrao, Ex-TTE, Sholapur, Central Railway for re-instatement in service.

Background

A representation dated 25.08.2008 was received from Shri T. Madhava Rao, Technician Grade-I, Indian Railway Institute of Signal Engineering and Telecommunications (IRISSET) regarding denial of his consideration for promotion to the post of Instructor (Rs.6500-10500) by the Authorities.

It is mentioned that IRISSET had issued a DPC selection notice in the month of October 2007 for the post of Instructor in UR Category. Accordingly, on 21.11.2007 Mr. SVK Hanuman had been promoted. The IRISSET administration was aware in October 2007 that one more post of Instructor was falling vacant due to superannuation of Mr. Laiqahmed Owais on 31.07.2008.

As per the Railway Board letter no E(NG)/I/96/PM1/19 dated 21.10.1997, IRISSET administration was supposed to issue notice for selection for two post of Instructor (One-UR and One-ST) in the month of October 2007 itself, taking into consideration the anticipated vacancies in the next 15 months. As per Shri Rao, this had been done under the pressure of SCRM Union to accomodate one UR candidate.

The applicant further mentioned that as per clause 222(a) of the Indian Railway Establishment Manual Vol I 1989 on "Rules governing the promotion of Group 'C' Staff", a Railway servant selected for a higher grade selection post without having been selected for the intermediatre grade selection post, if in the same avenue of promotion, should be treated as automatically selected for the later post.

The applicant also stated that Instructor's post is to be filled only by promotion (and not by DR) and there is no qualified eligible ST candidate available in the grade of Sr Technician / Jr Instructor and Instructor(Rs 5500-9000). He was the only ST candidate with Engineering Degree qualification.

This matter was taken up with the Advisor(Staff), Railway Board vide Commission latter dated 21.10.2008 followed by reminders, but there was no response.

A representation dated 22.04.2004 was received in the Commission from Shri R. M. Abhangrao, Ex.TTE, Sholapur, Central Railway for reinstatement in service on the alleged ground of the production of a false community certificate. The matter was discussed in the Commission on 08.11.2006 with the Railway

Authority. It was noted that the CVC had observed that the charges against Shri Abhangrao had been levelled without ascertaining beyond doubt the status of the community certificate produced by him. The Commission was informed that Scrutiny Committee at Pune had found that the community certificate produced by the petitioner was not genuine and based on that action was taken to remove him from the service and having regard to the findings of Scrutiny Committee, Pune and CVC, the matter had been referred to DOPT for their advice.

Govt. of Maharashtra vide their letter no BCC 2006/2487/CR116/07/16-B dated 23/05/2007 informed to the Commission that Government Resolution dated 15.03.2000 was fake and bogus which had not been issued by the Government. Shri Abhangrao had quoted this Order against his removal from service on the grounds of producing false community certificate. Number of reminders were sent to Railway, but no reply received from them.

In view of above, Shri Oris Syiem Myriaw, Hon'ble Member, National Commission for Scheduled Tribes decided to have a discussion with Advisor (Staff), Railway Board on the above issues on 08/09/2009 at 1500 hrs in the Commission.

Discussion

(i) With reference to the case of Shri T. Madhava Rao, Railway officials made it very clear that reserved vacancies were neither being diverted or dereserved in the Railways. ST vacancy will be filled up by an ST candidate only. It was clarified by them that the Section 222(a) of Indian Railway Establishment Manual Vol 1 1989, as mentioned by Shri Rao is applicable in case of jump by Railway employees due to their selection through LDCE and cannot be applied in cases of promotion by seniority. However, it was assured by the Advisor(Staff), Railway Board that in the process of filling up of the post of Instructor, reserved for ST, the case of Shri T. M. Rao would be considered sympathetically.

(ii) The matter related to Shri R. M. Abhangrao was discussed. The Railway officials explained following points:

- a) The Govt. of Maharashtra has clarified that Scrutiny Committee was constituted as per the Mharashtra Act XXIII of 2001 and the Order passed by the Scrutiny Committee under this Act shall be final and shall not be challenged before any authority or court except the High court under Article 226 of the Constitution of India. Further, para 7(1) of this Act authorizes the Scrutiny Committee to verify any caste/community certificate issued before or after the commencement of this Act.
- b) The CVC has advised the Railway Board to take such action as deemed fit against Shri R. M. Abhangrao, TTE vide their order dated 18.06.2009.

- c) The point raised by the applicant that he is a Central Govt. employee and State Govt. has no authority to verify his community certificate was clarified by DOPT. DOPT has clarified that it is the responsibility of the concerned State Govt. to verify the veracity of the SC/ST/OBC certificates and to frame the procedure for such verification. The constitution of Scrutiny Committee by a State Govt for the purpose is not in contravention of the instructions issued by DOPT.

Recommendation

In view of the above discussion, the Commission recommended that:

- i) While filling up the vacant post of Instructor (Rs 6500-10500) reserved for ST, the candidature of Shri T. M. Rao will be considered sympathetically.
- ii) Different agencies/authorites like CVC,DOPT and Govt of Maharashtra have considered the merits of the case concerning Shri R. M. Abhangrao, Ex-TTE, Sholapur, while taking decisions. Commission noted these decisions and considering the position contained therein recommended for closure of the case.

ANNEXURE

The following were present in the sitting on 08.09.2009:

National Commission for Scheduled Tribes

1. Shri Oris Syiem Myriaw, Hon'ble Member**In Chair**
2. Shri Aditya Mishra, Joint Secretary
3. Shri Vinod Aggarwal, Director

Railway Board

1. Shri P. K. Sharma, Advisor(Staff)
2. Shri K. Biswal, Exe Director Estt.(Res.)
3. Shri F. Kerketta, Jt Dir. Estt.(Res.)-I
4. Shri Suo Thang, Jt Dir. Estt.(Res.)-II
5. Shri K. Yesupadam, Dy.CPO/MPP, SC Rly.
6. Shri L. Bhushaiah, AS to Director, IRISSET

Petitioner

1. Shri T. Madhava Rao, Technician Grade-I, IRISSET