

Speed post



Government of India
National Commission for Scheduled Tribes
(A Constitutional Commission set up under Art. 338A of the Constitution of India)

File No. RCS/1/2012/MDEF2/SEPPROM/RU-IV

06.09.2018

To,

The Director General,
Directorate General of Ordnance Services,
Master General of Ordnance Branch,
Integrated HQ of MoD (Army),
New Delhi-110 011.

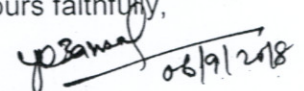
Sub: **Proceedings of the Sitting taken by Miss Anusuiya Uikey, Hon'ble Vice-Chairperson, National Commission for Scheduled Tribes (NCST) on 24.08.2018 in the case of Shri Ramachandra Sah, UDC, Central Ordnance Depot. (Establishment Branch), Delhi Cantt. regarding denial of promotion to the post of UDC w.e.f. 01.08.2011 under ST quota.**

Sir,

I am directed to enclose a copy of the Proceedings of the Sitting held on 24.08.2018 under the Chairmanship of Miss Anusuiya Uikey, Hon'ble Vice-Chairperson, National Commission for Scheduled Tribes on the above mentioned subject.

It is requested that action taken report in the matter may be intimated to the Commission, within one month positively for placing the same before the Hon'ble Vice-Chairperson, NCST.

Yours faithfully,


(Y.K. Bansal)
Research Officer

(Encl: As above)

Copy to:-

Shri Ram Chandra Sah,
UDC, 6969034,
Establish Branch (Med Cell),
Central Ordnance Depot,
Delhi Cantt- 110 010.

Copy to: - 4. SAS, NIC, NCST.

NATIONAL COMMISSION FOR SCHEDULED TRIBES

RCS/1/2012/MDEF2/SEPROM/RU-IV

PROCEEDINGS OF SITTING HELD ON 24.08.2018 AT 12.00 NOON CHAIRED BY MISS ANUSUIYA UIKEY, HON'BLE VICE-CHAIRPERSON, NATIONAL COMMISSION FOR SCHEDULED TRIBES (NCST) IN THE CASE OF SHRI RAM CHANDRA SAH, UDC, CENTRAL ORDINANCE DEPOT. (ESTABLISHMENT BRANCH) DELHI CANTT. REGARDING DENIAL OF PROMOTION TO THE POST OF UDC W.E.F. 01.08.2011 UNDER ST QUOTA.


Date of Sitting: 24.08.2018

List of officers present in sitting is Annexed.

The National Commission for Scheduled Tribes was received a representation dated 28.02.2012 from Shri Ram Chandra Sah, UDC, Central Ordinance Depot. (Establishment Branch) Delhi Cantt. regarding denial of promotion to the post of UDC w.e.f. 01.08.2011 against ST reserved vacancies. It was represented that he became eligible for promotion to the post of UDC w.e.f. 01.08.2011 but was promoted in the year 2013 despite availability of reserved ST vacancies in the cadre. In addition, before the convening of DPC, there were clearly 81 posts of UDC were lying vacant under ST quota as per reservation rosters. But his promotion was rejected on the ground of non-availability of vacancies. There is a clear cut instructions from the DoPT vide office order No. 36012/17/2002-Estt.(Res) dated 06.11.2003 which stipulated that after introduction of post based reservation, a post reserved for STs cannot be filled up even by SCs and candidates should be equal to the number of posts earmarked for them. The department concerned has also granted promotion w.e.f. 01.10.2011 even after cadre restructuring and holding surplus in other category on 23.09.2011. Besides this the fixing of crucial date for convening of DPC was arbitrary as the DPC was conveyed on 19.07.2011 without covering the whole month period.

2. As per procedure the Commission took up this matter with the Ministry of Defence authorities and subsequently a Sitting was held under the Chairmanship of the then Hon'ble Vice-Chairperson, NCST on 29.04.2016. The Commission had made recommendation that the Ministry of Defence may provide the following documents.

- (1) Post Based Reservation Roster of Jul 2011 (old) as well as Roster prepared after cadre restructuring.
- (2) Evidence regarding date of crucial date for eligibility
- (3) Recruitment Rules.
- (4) Categorical authorisation of UDC prior to cadre restructuring i.e on 30. Jul 2011 and after restructuring i.e on 23 Sep 2011
- (5) Category wise position of UDC prior to cadre restructuring i.e on 30 Jul 2011 and after restructuring i.e on 23 Sep 2011
- (6) Copy of DPC held in July 2011 and Oct 2011
- (7) Relaxation rules maintained for Tribal Candidates.


सुश्री अनुसुईया उइके/Miss Anusuiya Uikey
उपाध्यक्ष/Vice Chairperson
राष्ट्रीय अनुसूचित जनजाति आयोग
National Commission for Scheduled Tribes
भारत सरकार/Govt. of India
नई दिल्ली/New Delhi


3. In compliance with Commission's recommendations the M/o Defence vide his letter dated 14.10.2017 has submitted the requisite documents as asked by the Commission and also informed that:

- (a) No cases were processed /screened for promotion from LDC to UDC in DPC held on October, 2011 due to surplus holding of UDC posts.
- (b) The frequency of holding DPC is 4 x times in one year (quarterly) i.e. Jan, Apr and Jul to fill up the unfilled vac and unforeseen vac. Annual DPC would be conducted in the month of Oct/Nov of every year. The qualifying service / crucial date of cadre have been taken into account before the date of concerned DPC. This was well in practice in the past old system. Accordingly, 28 candidates who were eligible before date of DPC have been considered for promotion to the post of UDC in DPC held on 21 & 22 July, 2011. P. No. 6969034 UDC Ram Chandra Sah has been appointed as LDC on 30 Jul 2003. Hence, he was not qualified before date of DPC being not completed eight years of service. Therefore, his name has not been considered for promotion to the post of UDC in Jul 2011 DPC. There was no deviation in recruitment rules for promotion of UDC.

4. As the report was found to be unsatisfactory, hence, the Hon'ble Vice-Chairperson decided to hold a Sitting on 24.08.2018 in the Commission. Accordingly, the Senior officers from the Ministry of Defence were appeared. A letter dated 16.08.2018 for seeking exemption of appearance of Director General of Ordnance Services was submitted and the same was taken on record. The petitioner was also present.

5. During the Sitting, the officers from Ministry of Defence appraised the facts of the case and also submitted that the petitioner's promotion could not be considered due to non having eligibility i.e. requisite 8 years regular service in the feeder grade at the time of DPC held on 19.07.2011. Thereafter, the number of posts was reduced due to cadre restructuring vide Ministry of Defence letter dated 23.09.2011. Thus no vacancies were available during the year 2012. However, after available of ST vacancies, he was promoted to the post of UDC w.e.f. 01.09. 2013.


6. The petitioner submitted that as per reservation roster, the Department has 81 ST vacancies in the cadre of UDC and against which the general category employees were promoted. He became eligible for promotion w.e.f. 01.08.2011. But his promotion was denied due to non availability of ST vacancies and in the name of cadre restructuring. There were clear cut instructions in the DoPT O.M. No. 36012/17/2002-Estt.(Res) dated 06.11.2003 that after introduction of post based reservation, a post reserved for STs cannot be filled up even by SCs and candidate should be equal to the number of posts earmarked for them. Hence, his promotion should be considered against 81 ST available vacancies. In addition, the Department has not taken into consideration of full month for convening DPC. The promotion of 28 candidates has been granted w.e.f. 01.10.2011 even after cadre restructure and holding surplus in other category on 23.09.2011.


सुशी अनुसुईया उइके/Miss Anusuiya Uikey
उपाध्यक्ष/Vice Chairperson
राष्ट्रीय अनुसूचित जनजाति आयोग
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7. The case was discussed in detail. On examination of the case, the Commission observed that as per recruitment rules, the promotion to the post of UDC is considered from the employees who are having 8 years regular service in the feeder grade posts (LDC). In the instant case, the petitioner became eligible for promotion w.e.f. 01.08.2011 and at that period, ST reserved vacancies were available against which the petitioner could be considered for promotion. The Department has also accepted that the ST vacancies were available and could not be filled up for want of eligible ST candidates. The cadre restructuring in clerical cadre was effected vide Ministry of Defence letter No. A/26576/CPC/Clerk/OS-20/268/D(O-11)/2011 dated 23rd September, 2011 and due to which the cadre strength of UDCs were reduced from 2412 to 1444, resulting which 853 UDCs became surplus. However, the Commission felt that at the time of DPC held in October, 2011, and DPC to be held in 2012, the Department has not brought the facts before the DPC that from 01.08.2011 to 22.09.2011, the ST vacancies and eligible ST candidates were available to be considered for promotion and NIL ST vacancies were reported. It is pointed out that the DPCs are conducted to consider the promotion of the employees on the basis of the availability of vacancies/posts and eligibility conditions of candidates to be considered. In the petitioner's case, the ST vacancies was available and he was eligible to be considered for promotion. This seems to be injustice and depriving from the promotion to the ST eligible candidates.

8. In view of the above, the Commission recommends that the Ministry of Defence should review the petitioner's promotion w.e.f. 01.08.2011 in the light of available ST vacancies during the period in between 01.08.2011 and 22.09.2011 i.e. before issuing orders of cadre restructuring and petitioner's eligibility. If necessary, the Department of Personnel and Training (DoPT) who is the competent authority to issue the orders on promotions may be consulted and an opinion may be obtained.

9. An action taken report in the case may be submitted before the Commission within two months periods.


सुश्री अनुसुईया उईके/Miss Anusuiya Uikey
उपाध्यक्ष/Vice Chairperson
राष्ट्रीय अनुसूचित जनजाति आयोग
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NATIONAL COMMISSION FOR SCHEDULED TRIBES

Annexure

(File No. RCS/1/2012/MDEF2/SEPROM/RU-IV)

List of participants

NCST

1. Miss Anusuiya Uikey, Hon'ble Vice-Chairperson (In chair)
2. Shri P.T. Jameskutty, Deputy Secretary
3. Shri Y.K. Bansal, Research Officer

Officers of Ministry of Defence

1. Lt. Col Kramil Kewalia, Offg. Col. OS (Pers)
2. Shri Vijay Kumar, RO, AOC Records.
3. Shri B.P. Singh, Deputy Director, IHQ, MoD (Army).

Petitioner

Shri R.C. Sah