



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. MS/1/2018/MDEF2/SETRAN/RU-IV

Dated: 02.11.2018

To,

The Engineer-in-Chief,
IHQ of MOD (Army),
Kashmir House,
Rajaji Marg,
New Delhi – 110 011.

Sub: Proceedings of the sitting taken by Smt. Maya Chintamn Ivate, Hon'ble Member, National Commission for Scheduled Tribes (NCST) on 23.10.2018 in the matter of Shri Mukesh Singh, Secretary, Bharatiya Pratiraksha Mazdoor Sangh, Kanpur regarding harassment in transfer of Shri Donesh Anthony, MES No. 281769, Mate (FGM), GE (AF), under CWE(KF), Kalaikunda (West Bengal).

Sir,

I am directed to enclose a copy of the Proceedings of the Sitting held under the Chairmanship of Smt. Maya Chintamn Ivate, Hon'ble Member, National Commission for Scheduled Tribes on 23.10.2018 on the above mentioned subject for necessary action at your end.

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 Member, NCST.

Yours faithfully

(Y.K. Bansal)

Research Officer

Copy to:-

Shri Mukesh Singh,
Secretary,
Bharatiya Pratiraksha Mazdoor Sangh,
2-A, Navin Market,
Kanpur – 208 001
(Uttar Pradesh).

copy to: - 1-SAS, NIC, NCST.

NATIONAL COMMISSION FOR SCHEDULED TRIBES

Case File No. MS/1/2018/MDEF2/SETRAN/RU-IV

PROCEEDINGS OF SITTING HELD ON 23.10.2018 AT 04.00 P.M UNDER THE CHAIRMANSHIP OF SMT. MAYA CHINTAMN IVNATE, HON'BLE MEMBER, NATIONAL COMMISSION FOR SCHEDULED TRIBES (NCST) IN THE CASE OF SHRI MUKESH SINGH, SECRETARY, BHARATIYA PRATIRAKSHA MAZDOOR SANGH, KANPUR REGARDING GRIEVANCES OF HARASSMENT, DISCRIMINATION IN TRANSFER AND SUBSEQUENT DISMISSAL FROM SERVICE OF SHRI DONESH ANTHONY, MES NO. 281769, MATE (FGM), GE(AF), UNDER CWE(A/F), KALAIKUNDA (WEST BENGAL).

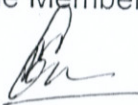
Date of Sitting: 23.10.2018

List of officers present in sitting is Annexed.

Shri Mukesh Singh, Secretary, Bharatiya Pratiraksha Mazdoor Sangh, Kanpur vide representation dated 07.06.2018 has submitted grievances of harassment, discrimination in transfer and subsequent dismissal from service of Shri Donesh Anthony, MES No. 281769, Mate (FGM), GE(AF), under CWE(A/F), Kalaikunda (West Bengal).

It has been alleged that Shri Donesh Anthony who is working as Mate FGM under HQ-CWE, A/F, Kalaikunda and also holding the post of General Secretary of Trade Union had made complaint about the malpractice of the CWE, A/F, Kalaikunda with the vendors serving the A/F, Kalaikunda until in various capacities. Thereafter, Shri Anthony knocked the CWE several times to stop the illegal and unjust activities of the CWE and the others going inside the office. Thereafter, the CWE became more angry and to take revenge, he ordered an Departmental Inquiry against him without any proper reason. Shri Anthony was transferred to Panagarh on 05.01.2018 from GE (AF), Kalaikunda without any sufficient cause and reason and later on his transfer was cancelled on 08.06.2018. He joined his duty on 11.06.2018. But on next day, the services of Shri Anthony was dismissed on 12.06.2018 vide order No. C/109/B/KKD/232/E1 Con. by Shri A.K. Khandelwal, CWE (AF), Kalaikunda. No salary was paid to Shri Anthony from January, 2018 to till date.

2. As per procedure, the Notice was issued to the Engineer-in-chief, IHQ of MoD (Army), New Delhi on 10.07.2018 for furnishing the facts.
3. The Department concerned vide its letter dated 01.08.2018 has reported that the petitioner Shri Donesh Anthony has been advised to appeal before the Appellate Authority i.e. CE(AF), Shillong Zone against penalty order.
4. The report was found to be unsatisfactory and therefore, a Sitting was held under the Chairmanship of Hon'ble Member Smt. Maya Chintamn Ivnate, NCST on 23.10.2018.



Smt. Maya Chintamn Ivnate
Member

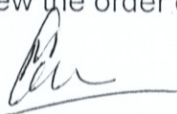
National Commission for Scheduled Tribes
Govt. of India, New Delhi

Director, P.A., MES, New Delhi appeared before the Commission. The petitioner was also present.

6. In Sitting, the petitioner Shri Mukesh Singh informed that the ST employee Shri Donesh Anthony was being victimized from the day of joining i.e. in 2000 to till date. Shri Anthony was harassed in the name of submission of fake ST caste certificate in the year 2006 and the matter was resolved after submission of facts and verification of genuiness of ST caste certificate in the year 2008. However, a penalty of reduction of pay was imposed against him. In January, 2018, he was transferred arbitrarily. He made several request before the higher authority for cancellation of transfer. But the same was not considered. Thereafter, in June, 2018, his transfer was cancelled. But on next day i.e. 12.06.2018 a penalty of dismissal was imposed upon him without conducting any Departmental Inquiry as per Civil Services Rules. No natural justice was provided to Shri Anthony to defend the allegation levelled against him. No salary and dues were also provided to Shri Anthony. The petitioner further submitted that this issue was examined by the Chief Labour Commissioner (Central), New Delhi and it has been decided on 08.10.2018 to initiate legal action under Section 25(U) (punishment of imprisonment for a term of 06 months) for violation of Section 25(T) of the Industrial Disputes Act, 1947 against Shri A.K. Khandelwal, CEW(AF), Kalaikunda.

7. The Officer appeared, the CE (NFG), HQ, CWE (AF), Kalaikunda has then submitted background of the case. He was stated that Shri Anthony was recruited as Mate(FGM) in June, 2000 under ST quota. During the enrolment, Shri Donesh Anthony had submitted ST certificate belonging to Scheduled Tribe Sub Caste "Meena" issued by Tehsildar, Sadar, Allahabad. Thereafter based on a complaint about fake ST certificate of Shri Anthony after 6 years of his service, in 2006, the CWE (AF), Kalaikunda conducted an inquiry under CCS(CCA) and Rule 1965 and the caste certificate of Shri Anthony was verified from the issuing authority. The issuing authority (District Magistrate, Allahabad) confirmed that no such ST certificate was issued to Shri Anthony. Thereafter, Shri Anthony had submitted another ST certificate (Munda caste) issued from Deputy Commissioner, Ranchi. The inquiry was conducted and based on the findings of the Inquiry Officer, the Disciplinary Authority imposed minor penalty of reducing his pay by one stage for a period of 2 years vide order dated 23.05.2008.

On 28th July, 2018, the Department has again received a complaint against Shri Anthony regarding use of fake ST caste certificate at the time of enrolment at MES. Accordingly, the case was inquired by Single men investigation of CWE (AF), Kalaikunda and the Inquiry Officer concluded that the caste certificate given by Shri Anthony at the time of his enrolment is fake. He first gave caste certificate of ST (Meena community) issued from Allahabad, which was found fake. Thereafter, he submitted another ST caste certificate of "Munda" caste issued from Deputy Commissioner, Ranchi in 2006. In addition, there were contradiction in the original place of birth and domicile of his father. Thus, Shri Anthony had tried to mislead the Department. Based on the Inquiry Officer report, the Disciplinary Authority (CWE (AF)), Kalaikunda decided to review the order dated 23.05.2008 of the then CWE(AF),



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producing the original copy of the caste certificate to Shri Donesh Anthony on 02.06.2018. But he has failed to submit caste certificate. Accordingly, the Disciplinary Authority has imposed punishment of dismissal from service vide order dated 12.06.2018.

8. Both the parties heard in detail. The Commission observed that Shri Anthony was enrolled in service as Mate under ST quota. At the time of his enrolment, the Department did not verify the caste certificate. However, after passing of 6 years of service, Shri Anthony's Scheduled Tribe certificate of sub caste "Munda" issued by Deputy Commissioner, Ranchi vide No. 742 dated 16.06.2006 was verified and found to be genuine. A Departmental Inquiry conducted by the then CWE (AF), Kalaikunda in its order dated 23.05.2008 had accepted the ST caste certificate issued by Deputy Commissioner, Ranchi to Shri Anthony. The caste certificate has also not cancelled by the issuing authority. However, on the basis of the another complaint and without having proof of fake ST certificate, imposition of the punishment of dismissal from service found to be unjustified and arbitrary. The Commission has also felt that while imposing punishment of dismissal, no Departmental Inquiry was conducted as per CCS (CCA) Rules, 1965 and no natural justice was provided to the petitioner. No salary was also released to Shri Anthony from January to June and hence, his economical position became very weak and he was not in position to feed the family members. Thus, it appears that the action of the CWE(AF), Kalaikunda seems to be violation of rules and harassment with a poor ST employee. The Commission also observed that the CWE (AF) took the extreme step of dismissal without verifying the authenticity of the ST certificate issued by Deputy Commissioner, Ranchi.

9. The Commission therefore, recommends that:

- The CWE (AF), Kalaikunda should review his order dated 12.06.2018 of punishment of dismissal from service to Shri Anthony and take immediate corrective action for his reinstatement into service based on the earlier Department Inquiry held on 25.06.2008 wherein the ST certificate of Shri Anthony was found to be genuine and accepted. All monetary benefits and salary should be released so that he could feed his family members.
- The Commission will get inquire the ST caste certificate of Shri Donesh Anthony from the issuing authority i.e. Deputy Commissioner, Ranchi for genuiness of the ST certificate. Thereafter, based on the verification report, further action will be taken in the matter.
- If the ST caste certificate will be found to be fake, then the Commission will recommend punitive action against the Shri Anthony.

10. An action taken report in the matter should be submitted before the Commission within 30 days from the receipt of the proceedings of the Sitting.



Smt. Maya Chintamn Ivnate
Member
National Commission for Scheduled Tribes
Govt. of India, New Delhi

List of participants

NCST

1. Smt. Maya Chintamn Ivnate, Hon'ble Member(In chair)
2. Shri P.T. Jameskutty, Deputy Secretary
3. Shri Y.K. Bansal, Research Officer
4. Shri S.K.Atram, PS to Hon'ble Member
5. Shri H.R. Meena, Sr. Investigator

Officers of the Engineer-in-Chief, IHQ of MoD (Army), New Delhi

1. Shri A.K. Khandelwal, IDSE, CE (NFG), HQ CWE (AF), Kalaikunda (WB)
2. Shri V.S. Bhartiya, IDSE, Deputy Director, HQ MES, New Delhi.

Petitioners

1. Shri Mukesh Singh
2. Shri Virendra Sharma