



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. KNR/5/2018/STGAP/SEPROM/RU-IV

Dated: 15.03.2019

To,

The Principal Secretary,
Energy Department,
Government of Andhra Pradesh,
New Secretariat,
Velagapudi, Amaravati,
District – Guntur (Andhra Pradesh)

The Chairman and Managing Director,
APSPDCL,
D. No. 19-13, 65/A, Tiruchannor Road,
Srinivasapuram,
Tiruchanur, Tirupati,
Andhra Pradesh – 517 503.

Sub: PROCEEDINGS OF SITTING HELD ON 14.03.2019 CHAIRED BY SMT. MAYA CHINTAMN IVNATE, HON'BLE MEMBER, NATIONAL COMMISSION FOR SCHEDULED TRIBES (NCST) IN THE CASE OF SHRI D. SUBBA RAO, GENERAL MANAGER, MEMBER TECHNICAL TO CGRF, CORPORATE OFFICE/APSPDCL, TIRUPATI TO THE POST OF DIVISIONAL ENGINEER, SUPERINTENDING ENGINEER AND GENERAL MANAGER E1 CADRE AND RESTORING OF SENIORITY.

Sir,

I am directed to enclose herewith a copy of the Proceedings of the Sitting held on 14.03.2019 under the Chairmanship of Smt. Maya Chintamn Ivnate, Hon'ble Member, National Commission for Scheduled Tribes on the above mentioned subject for necessary action and submission of compliance report to this Commission within 5 weeks from the receipt of the letter for placing the same before the Hon'ble Member, NCST.

Yours faithfully,

(Y.K. Bansal)
Research Officer

(Encl. As above)

Copy to:

Dr. K. Narayana Rao,
National President,
Forum for Social Justice,
Chamallamudi, (Via), Etukur,
Guntur – 522 017, Amaravathi
(Andhra Pradesh).

Copy for information to:

Shri D. Subba Rao,
General Manager,
Member Technical/CGRF,
Corporate Office/APSPDCL,
Vidyut Nilayam, Kesvayanagunta,
Tiruchanoor Road,
Tirupati – 517503 (Andhra Pradesh).

Copy to: - SSA, NIC, NCST.

NATIONAL COMMISSION FOR SCHEDULED TRIBES

KNR/5/2018/STGAP/SEPROM/RU-IV

PROCEEDINGS OF SITTING HELD ON 14.03.2019 CHAIRED BY SMT. MAYA CHINTAMN IVNATE, HON'BLE MEMBER, NATIONAL COMMISSION FOR SCHEDULED TRIBES (NCST) IN THE CASE OF SHRI KODURI NARAYANA RAO, FORUM FOR SOCIAL JUSTICE, GUNTUR (AP) REGARDING DISCRIMINATION IN PROMOTION TO SHRI D. SUBBA RAO, GENERAL MANAGER, MEMBER TECHNICAL TO CGRF, CORPORATE OFFICE/APSPDCL, TIRUPATI TO THE POST OF DIVISIONAL ENGINEER, SUPERINTENDING ENGINEER AND GENERAL MANAGER E1 CADRE AND RESTORING OF SENIORITY.

Date of Sitting: 14.03.2019

List of officers present in sitting is Annexed.


The petitioner Dr. K. Narayana Rao vide his representation dated 01.08.2018 has submitted the grievances regarding denial of promotion to Shri D. Subba Rao, General Manager, Member Technical to CGRF, Corporate Office/APSPDCL, Tirupati.

It has been alleged that Shri D. Subba Rao was given incharge promotion as Divisional Engineer under Roster point No. 25 earmarked for ST against backlog vacancy panel year 2004-05 on 04.02.2005 along with his junior Shri N. Narasimhulu. Due to non completion of 5 years of service required to be considered for promotion in the cadre of ADE, he and his junior were not promoted at that time. He completed his requisite length of service on 15.11.2005, his promotion was also not regularized due to issuing of alleged show cause notice by the APSPDCL Management on 21.09.2005. Thereafter, based on inquiry report on the charges of complaints made by the public and bribery, the Disciplinary Authority imposed a punishment of stoppage of one increment with cumulative effect vide order dated 31.01.2006. However, the punishment was modified from stoppage of one increment with cumulative effect to stoppage of one increment without cumulative effect by the Appellate Authority against his appeal.

During the operation period of punishment i.e. 31.01.2006 to 31.01.2007, his junior Shri N. Narasimhulu was considered and regularised incharge promotion in Divisional Engineer cadre against short panel on 03.07.2006 which is violation of the panel procedure duly filling with ST roster point No. 25 instead of ST roster point No. 33 to favour his junior. Due to this, he became junior in the cadre of DE and could not get promotion in the next higher cadre. It is also mentioned here that he was awarded dual punishment for one charges. He requested the Commission to restore his seniority in DE cadre w.e.f. 03.07.2006 and released his all due promotions with retrospective effect.

2. As per procedure, the NCST vide its notice dated 29.11.2018 sought a report from the Principal Secretary, Energy Department, Govt. of Andhra Pradesh and the CMD, APSPDCL, Tirupati.


3. The APSPDCL Management vide its letter dated 11.01.2019 has submitted a report wherein, it was informed that there were inadequate representation of ST category in the cadre of DE and 2 vacancies against roster point No. 25 & 33 was arose in the panel year 2004-05. Hence, as per seniority list, two ST senior most Officers, the petitioner Shri D. Subba Rao along with Shri N. Narasimhulu were considered for promotion to the post of Divisional


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Member
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Engineer as per the APSEB service regulation. Since, both officers were not having the requisite minimum qualification of rendering 5 years regular service in the cadre of ADE/Elc. and hence, they could not be promoted. In the meanwhile, Shri D. Subba Rao and Shri N. Narasimhulu, ADE/Elec., were posted as Incharge DEs vide memo date 04.02.2005 on administrative convenience only. But, this was not regular promotion as DE/Elec. Subsequently, one inquiry was initiated against Shri D. Subba Rao into the charges of irregularities committed by him and involvement in corruption when he was working as ADE/O/Visannapeta vide Memo dated 21.09.2005. During the inquiry, the charges were held proved against Shri Rao and he was awarded a punishment of stoppage of one increment with cumulative effect vide memo dated 31.01.2006. The petitioner's punishment was modified by stoppage of one increment without cumulative effect against the petitioner's appeal. The operative period of punishment effective from 31.01.2006 to 30.01.2007. The next panel of promotion for the year 2005-06 was approved on 01.10.2005. Since, the petitioner Shri D. Subba Rao was facing disciplinary proceedings and said charge sheet was issued on 21.09.2005 and hence he was not included in the panel year 2005-06 for considering promotion from ADE cadre to DE cadre. Similarly, another ST candidate was not having requisite length of service and he was also not promoted. Thus, ST roster points were carried forward. Again a short panel (2005-06) was prepared for considering promotion from ADE/E1 cadre to DE/E1 cadre and approved on 03.07.2006. Since, Shri D. Subba Rao was under punishment and he was not considered for promotion against short panel. However, next eligible ST candidate Shri Narasimhulu was considered for promotion against roster point No. 25 thus ST as per the rules.

After completion of punishment period i.e. on 30.01.2007 Shri D. Subba Rao was included in the next panel year 2006-07 and considered promotion as DE on 25.05.2007 against roster No. 33-ST. Accordingly, Sri N. Narasimhulu has become senior most DE than Shri D. Subba Rao, DE in the seniority list of DE/Elec. Subsequently, Shri. N. Narasimhulu was again promoted as SE/Elec. during the panel year 2009-10 and Chief Engineer, Elec. during the panel year 2013-14. Moreover, Shri D. Subba Rao was subsequently promoted as SE/Elec. (GM) during the panel year 2015-16.

4. Being dissatisfied with the Department's report, the Hon'ble Member, Smt. Maya Chintamra Inate fixed a sitting on 27.02.2019 and called the CMD, APSPDCL for discussion in the case. Since the CMD, APSPDCL could not appear before the Commission and therefore, the sitting was deferred for 14.03.2019.
5. The sitting was held on 14.03.2019. The CMD, APSPDCL along with other senior Officers from APSPDCL appeared. The petitioner was also present.
6. In sitting, the petitioner Shri D. Subba Rao informed the Commission that he was denied promotion to the post of Divisional Engineer w.e.f. 03.07.2006 being having eligibility due to arbitrarily imposition of penalty of stoppage of one increment. He was awarded dual punishment for one charges and his defence documents were taken into consideration during the inquiry. Due to this, he became junior in the cadre and was deprived for further promotions.
7. The CMD, APSPDCL informed the Commission that the petitioner was considered for promotion to the post of Divisional Engineer against the vacancy year 2005-06 under ST quota. But due to under punishment, he could not be promoted.
8. The case was discussed in detail. The Commission observed that the petitioner Shri Subba Rao was awarded dual punishment for one charges of irregularities. The charges of


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bribery was also not proved during the inquiry. In addition, during the inspection of the office of the petitioner, the APSPDCL Management had issued warning only to the petitioner and no action was taken on the other officers concerned. The petitioner was also not provided fair opportunities to defend his case and his defence documents were not taken into consideration. The Commission also noted that during the Departmental enquiry, the veracity of the complaint against which charge sheet was issued to the petitioner was not checked from the complainants. Thus, it appears to be a case of discrimination and harassment with the ST officer.

9. In view of the above, the Commission recommends that:

- The CMD, APSPDCL should re-conduct the inquiry into the allegations of original complaint filed against the petitioner taking into consideration of petitioner's defence documents and provide natural justice to the petitioner.
- The APSPDCL Management should consider to sanction TA/DA expenses for attending the Commission to the petitioner as per rules.
- The details about action taken on the Inspection Report of the O/o the ADE/Visannapeta carried out by the APSPDCL Management in the year 2005 should be submitted before the Commission whether inspection was done in respect of other officials also. If so, what action has been taken in this regard.
- The inquiry should be completed within period of one month and a copy of the inquiry report along with information sought should be submitted before the Commission.
- An action taken report and status report on the Commission's recommendations should be submitted within a period of 5 weeks from the receipt of the proceedings.


Smt. Maya Chintamn-Ivnate
Member
National Commission for Scheduled Tribes
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NATIONAL COMMISSION FOR SCHEDULED TRIBES

Annexure

(File No. KNR/5/2018/STGAP/SEPPROM/RU-IV)

List of participants

NCST

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

Officers of APSPDCL, Tirupathi

1. Shri M.M. Nayak, CMD,
2. Smt. B. Sangeetha Rao, CGM, HRD
3. Shri V. Prabhakar, GM, HRD-II

Petitioner

Shri D. Subba Rao