



भारत सरकार

Government of India

राष्ट्रीय अनुसूचित जनजाति आयोग

National Commission for Scheduled Tribes

(A Constitutional body set up under Article 338A of the Constitution of India)

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

File No. JKG/1/2019/MRLY1/SEPROM/RU-I

Dated: 12/06/2019

To,

The Chairman,
Railway Board,
Rail Bhawan,
New Delhi- 110001

Sub: Representation dated 08.03.2019 of Shri Jiran Kumar Guria, DME/ (C&W), HWH regarding promotion to Group B officers of Mechanical Department to Group A scale of IRSME against promotion quota.

Sir,

I am directed to refer to the subject cited above and to enclose a copy of the minutes of sitting held in the Headquarters of National Commission for Scheduled Tribes on 27/05/2019 at 11:30 A.M. under the Chairmanship of Shri H.C. Vasava, Hon'ble Member, National Commission for Scheduled Tribes in the matter.

It is, requested that action taken on the suggestions/recommendations of the Commission may please be sent to the NCST at the earliest.

Yours faithfully,

(Dr. Lalit Latta)
Director

Tel: 011-24615012

Copy to:

Shri Jiran Kumar Guria,
Divisional Mechanical Engineer,
Carriage & Wagon,
Divisional Railway Manager office,
Beside Howrah Railway Station,
Howrah- 711101
(West Bengal)

Shri Gajanand Meena,
RB IV 157/D Officer Railway quarters,
Ramlal Chowk, Opposite of Dr. Uma
Pradhan Eye Hospital, Railway Lines,
Solapur (Maharashtra)- 413001
(Mob: 07219614009)

Copy for information to:

1. PS to Hon'ble Member (HCV), NCST
2. NIC (for hosting on Commission's website).

Government of India
National Commission for Scheduled Tribes

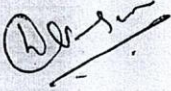
(JKG/1/2019/MRLY1/SEPROM/RU-I)
(GN/2/2019/MRLY1/SEPROM/RU-I)

Minutes of sitting held in the NCST's Headquarters on 27/05/2019 at 11:30 A.M under the Chairmanship of Shri H.C. Vasava, Hon'ble Member, NCST in the case of Shri Jiran Kumar Guria, DME/ (C&W), HWH regarding promotion to Group B officers of Mechanical Department to Group A scale of IRSME against promotion quota.

List of participants is annexed.

2. Shri Jiran Kumar Guria, Department of Mechanical Engineering (C&W), HWH, Eastern Railway, Howrah Division, Howrah, (West Bengal) vide representation dated 08.03.2019 furnished the list of Inter-Se seniority promotion of officers of Mechanical Engineering Department on their substantive appointment in Grade 'A' Junior scale from Group 'B' w.e.f. 06.02.2019 (panel year 2015-16), issued by the Railway Board vide letter No. E(O)/1/2019-SR-6/06 dated 22.02.2019 and stated that none of the ST candidate has been included in the promotion list though ST candidates were available due for promotion. Shri Jiran Kumar Guria requested for consideration of his case for promotion by the Ministry of Railway. The NCST took up the matter with the Chairman, Railway Board on 14.03.2019 for facts and comments. The representation (on similar issues as raised by Shri Jiran Kumar Guria) from Shri Gajanand Meena, Station Director, Solapur was received in the NCST.

3. In response to NCST's communication dated 14.03.2019, the Railway Board vide letter No. E(GP)2015/3/4 VoI.II dated 09.04.2019 has furnished the comments and stated that as per Hon'ble Central Administrative Tribunal, Mumbai dated 10.01.2019, a joint meeting was convened by UPSC with the representative of DoPT and Ministry of Railways on 15.01.2019 wherein it was decided that subject DPC shall be convened in accordance with the judgment dated 19.12.2017 of Hon'ble Tribunal without following reservation roster and Ministry of Railways were requested to re-submit their DPC proposal with just the normal zone of consideration and without giving break-up of total vacancies. Accordingly, the revised DPC proposals as decided in the joint meeting was submitted to UPSC on 16.01.2019. UPSC conducted the DPC for vacancy year 2015-16 on 05.02.2019 and the minutes were received in Railway Board's office on 06.02.2019. There were 84 vacancies in the vacancy year 2015-16 and DPC conducted by UPSC recommended the first 88 'fit' officers based on seniority (including four names under the extended panel) for promotion to

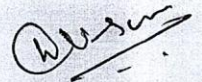

हर्षदभाई वसावा/Harshadbhai Vasava
सदस्य/Member
राष्ट्रीय अनुसूचित जनजाति आयोग
National Commission for Scheduled Tribes
भारत सरकार/Govt. of India
नई दिल्ली/New Delhi

Group A Junior scale which included 18 SC candidates and Nil ST candidates. Accordingly, the Railway Board issued the list of candidates on 20.02.2019. This facts and comments of Railway Board was communicated to Shri Jiran Kumar Guria on 06.05.2019.

4. The Hon'ble Member Shri H.C. Vasava fixed the sitting on 27.05.2019 to discuss the issue with the Chairman, Railway Board and the petitioner. The Railway Board vide letter No. E(GP)2015/3/4 VoI.II dated 24.05.2019 informed that the Executive Director Establishment in Railway Board would attend the sitting and furnished the brief of the case.

5. In the sitting dated 27.05.2019, the Executive Director Establishment and Director (GP) were appeared before the Commission and the petitioner was not present. The Hon'ble Member asked the representatives of Railway Board to explain the action taken by the Railway Board in the matter. The representative of Railway Board had reiterated facts and comments of Railway Board submitted to the Commission vide letter dated 24.05.2019. However, the chronological details of court cases filed before the Hon'ble Central Administrative Tribunal, Mumbai, Hon'ble High Court of Mumbai and the Apex Court in this matter were also brought to the notice of the Commission. Representatives of Railway Board has also stated that Hon'ble Central Administrative Tribunal, Mumbai in OA No. 276 of 2017 in its directions dated 19.12.2017 disposed case with the directions (refer para 12 of the order) which is as under:

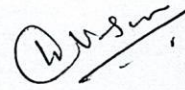
“In the circumstances, it is appropriate to adopt the decision of Hon'ble CAT, Ernakulam Bench as cited above in the present case and **to direct the respondent Nos. 1 (Secretary, Railway Board) & 2 (GM/CR) to immediately resubmit their proposals for promotion to respondent No. 3 (Secretary, UPSC) who shall, within four weeks, convene the DPC and consider all eligible persons without following reservation roster and decided on selections based on seniority and merit, in pursuance of the decision rendered by Hon'ble Supreme Court in landmark case of M. Nagaraj & Ors. V. Union of India and Ors (AIR 2007 SC 71)**. If the applicants as also others are found fit for promotion, they should be promoted w.e.f. the eligible date notionally and benefits calculated accordingly. The promotions so conferred shall, naturally, be subject to the decision of the Hon'ble Apex Court in the above referred SLP”.



हर्षदभाई वसावा/Harshadbhai Vasava
सदस्य/Member
राष्ट्रीय अनुसूचित जनजाति आयोग
National Commission for Scheduled Tribes
भारत सरकार/Govt. of India
नई दिल्ली/New Delhi

6. In pursuance of Contempt Petition filed in the matter of compliance of order dated 19.12.2017 of Hon'ble CAT, Mumbai which came up for hearing on 10-1-2019. Wherein the Hon'ble CAT directed UPSC to resolve the dispute regarding proposal for promotion/induction in Group A in junior Scale of IRSME. As per direction, a joint meeting was convened by UPSC with the representative of DoPT and Ministry of Railways on 15.01.2019, wherein it was decided that subject DPC shall be convened in accordance with the judgment dated 19.12.2017 of Hon'ble Tribunal without following reservation roster and Ministry of Railways were requested to re-submit their DPC proposal with just the normal zone of consideration and without giving break-up of total vacancies. Accordingly, the revised DPC proposal as decided in the joint meeting was submitted to UPSC on 16.01.2019. UPSC conducted the DPC for vacancy year 2015-16 on 05.02.2019 and the minutes were received in Railway Board's office on 06.02.2019. There were 84 vacancies in the vacancy year 2015-16 and DPC conducted by UPSC recommended the first 88 'fit' officers based on seniority (including four names under the extended panel) for promotion to Group A Junior Scale which included 18 SC candidates and Nil ST candidates. Accordingly, the Railway Board, vide notification No. E(GP)2015/3/4 dated 20.02.2019 issued the list of candidates for the panel of 2015-16 with certain conditions.

7. After detailed discussions with the representatives of Railway Board and facts submitted by the Railway Board, NCST observed that the Railway Board issued the list of candidates vide notification dated 20.02.2019 for panel of the year 2015-16 on the directions of the Hon'ble CAT, Mumbai and also mentioned ~~the~~ certain conditions therein. Keeping in view of that the matter has already been considered by the Hon'ble CAT, Mumbai, Hon'ble High Court of Mumbai and Apex Court, Commission decided to not intervene in the panel for 2015-16 notified by the Railway Board. It was recommended that the Railway Board should convene the meeting of DPC in consultation with the stakeholders for the next panel, giving due consideration of the backlog for the year 2015-16 and next panel for ST posts at the earliest.



हर्षदभाई वसावा/Harshadbhai Vasava
सदस्य/Member
राष्ट्रीय अनुसूचित जनजाति आयोग
National Commission for Scheduled Tribes
भारत सरकार/Govt. of India
नई दिल्ली/New Delhi

भारत सरकार
राष्ट्रीय अनुसूचित जनजाति आयोग

(F. No. JKG/1/2019/MRLY1/SEPROM/RU-I)
(GN/2/2019/MRLY1/SEPROM/RU-I)

List of participants in the sitting held on 27/05/2019 at 11:30 A.M. in the case of Jiran Kumar Guria, DME/ (C&W), HWH regarding promotion to Group B officers of Mechanical Department to Group A scale of IRSME against promotion quota.

I National Commission for Scheduled Tribes

1. Shri H. C. Vasava, (In chair)
Hon'ble Member
2. Shri H.K. Damor, (In chair)
Hon'ble Member
3. Shri P.T. Jameskutty,
Deputy Secretary
4. Shri Rajeshwar Kumar,
Assistant Director
5. Shri R.S. Misra,
Senior Investigator
6. Shri Manoj Mishra,
PS to Hon'ble Member

II Railway Board, New Delhi

1. Shri Navin Kumar,
Executive Director Estt.
2. Shri Sudhir Kumar,
Director (GP)

III Petitioner

Nil